







**WAR**  
**AND**  
**ALIEN ENEMIES.**

**THE LAW**  
**AFFECTING THEIR**  
**PERSONAL AND TRADING RIGHTS,**  
**AND HEREIN OF**  
**CONTRABAND OF WAR**  
**AND**  
**THE CAPTURE OF PRIZES AT SEA.**

**BY**  
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**• SECOND EDITION. •**

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# PREFACE

TO THE SECOND EDITION.

DURING the year which has elapsed since this Work was published, a considerable volume of legislation has been passed, for the most part to meet emergencies as they arose. The text of so much of these enactments as appeared specially to affect alien enemies, and those having dealings with them, has now been incorporated. The principles enunciated in the former Edition, however, remain substantially unaffected by subsequent legislation.

An index and table of cases has been added, and it is hoped that the Work in its present form may be found useful to those whose duty it may be to unravel practical problems arising hereafter out of the present War.

ARTHUR PAGE.

August, 1915.



## PREFACE

### TO THE FIRST EDITION.

My object in offering this book to the public, is to enable alien enemies, and those who have had business relations with them, to understand the legal position in which they find themselves at the outbreak of war. War affects the position of everybody, more or less, but the difficulties which it throws in the way of the commercial community are great in number, and even greater in complexity. Moreover, since the days of Napoleon—a hundred years ago—the British nation has never had its naval and commercial supremacy seriously and directly challenged until to-day. In these circumstances it is not unnatural that, so far as I know, a recognized text-book dealing with the general legal position in which alien enemies stand at the commencement of this great war should not be in existence. If this book should be found to be of assistance to those who seek to ascertain what is the position of alien enemies at the present time, the purpose for which this work has been undertaken will have been accomplished.

ARTHUR PAGE.

4, TEMPLE GARDENS, E.C.,  
*August 22<sup>nd</sup>, 1914.*



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# WAR AND ALIEN ENEMIES.

## CHAPTER I.

### DEFINITION OF ALIEN ENEMIES.

AN alien is one who is born "out of the liegeance of the King" (Coke Litt. 129 (a)), and who has not come within the allegiance of the King by naturalization or otherwise, or one who, though a natural born subject of the King, has become and remained divested of his British nationality by naturalization, marriage, or otherwise (see 33 Vict. c. 70; 4 & 5 Geo. V. c. 17; and Regulations made thereunder on 1st January, 1915; *R. v. The Superintendent of Albany Street Police Station*, *The Times*, Aug. 2, 1915).

An alien enemy is an alien whose Sovereign or State is at war with His Majesty the King (see *Sparenburgh v. Bannatyne*, 1 B. & P. 163, and Aliens Restriction (Consolidation) Order, Art. 31, App., p. 109).

The *personal* status of aliens—for example, their liability to expulsion and registration—is determined by whether or not they come within the above definition of alien enemy, for their personal status follows from their nationality or permanent allegiance.

It does not follow, however, that all persons who by nationality or permanent allegiance are the subjects of an enemy Sovereign or State are necessarily or for all purposes to be regarded and treated as the



alien enemies of a belligerent State (see Trading with the Enemy Proclamation (No. 2), 9th Sept., par. 3, in App., p. 170). The *civil* status of aliens, and other persons—for example, their rights and disabilities in respect of litigation, contracts, torts, trade and property—depends in great measure upon whether or not they are clothed with *enemy character*.

An object of waging war being to crush the power of the enemy State by crippling its resources, persons are deemed to be clothed with enemy character not because they possess a particular nationality, but because by the relationship in which they have voluntarily placed themselves towards an enemy State, its resources tend to be increased and its power strengthened.

All persons, whether by nationality or permanent allegiance they are the subjects of His Majesty or of an enemy or neutral State, who, without the permission of the King, so associate themselves with a community at war with His Majesty as to justify the inference that they have chosen to identify themselves with the interests of the enemy State, are deemed to be and are treated as enemies of His Majesty, so far as their civil status is concerned. Conversely, British subjects and the subjects of a State at war with His Majesty, who elect so to act that the true conclusion to be drawn from their conduct is that they have thrown in their lot with a neutral community, are regarded and treated as neutral persons, and not as enemies.

The most apparent mode by which a person can identify himself with the community of a State is by actively taking up arms upon its behalf. In such a case the hostility of his attitude towards the State, in

the attempt to subjugate which he is taking a part, is clearly manifested, and it would be unreasonable to expect that the State attacked should regard him as in any different position from that in which other members of the enemy's forces stand. A similar conclusion will be drawn in the case of a person who enters the public service of an enemy State.

But there are other modes than by active co-operation with the enemy's forces in the field of battle or by entering the civil service by which an intention to adhere to the King's enemies may be manifested.

Whether a particular individual is to be regarded as an enemy or not for *civil* purposes, as explained above, will in most cases be determined by ascertaining the State within the territories of which he is *domiciled*. The reason for this is that if a person is found to be residing within the territory of a State in such a manner or for so long a time that it may reasonably be inferred that he intends during the war to establish himself therein, it is natural that he should be treated by a belligerent, so far as his property and civil rights are concerned, as though he were a subject of that State. Mr. Hall, in his well-known treatise on International Law (6th ed., p. 491), puts it thus:—"A foreigner living and established within the territory of a State is to a large extent under its control; he cannot be made to serve it personally in war, but he contributes by way of payment of ordinary taxes to its support, and his property is liable, like that of subjects, to such extraordinary subsidies as the prosecution of a war may demand. His property being thus an element of strength to the State, it may reasonably be treated as hostile by an enemy. Conversely, when the foreigner lives in a neutral country he is so

far subject to its sovereignty that it can restrain him from taking advantage of its territory to do acts of hostility against the enemy of his State, and it is responsible for his acts if he does them. For the purposes of the war therefore he is in reality a subject of the neutral State."

Differences of opinion have been expressed among authorities on international law as to how far the domicile which will determine the question whether an individual is to be regarded as an enemy differs from civil domicile in its essential elements (see Dicey, *Conflict of Laws*, 2nd ed., p. 740, and *Journal of Comparative Legislation*, 1908, p. 157, and 1909, p. 265). The main difference appears to be that an individual's civil domicile is determined by ascertaining the country which he regards as his "home," an individual's war domicile by ascertaining whether he intends during the war to adhere to the King's enemies, and to benefit the enemy by residing or carrying on business in territory belonging to or in the occupation of the enemy (see *Mitsui v. Mumford*, (1915) 2 K. B. 27; *U. S. v. Rice*, 4 Wheat. 246; *The Gerasimo*, 11 Moo. P. C. 88; Proclamation 16th Feb. 1915, No. 140).

The important point to bear in mind, however, is that for determining whether a person is clothed with the character of an enemy or that of a neutral (a matter which seriously affects his civil status), regard must be had rather to his war domicile than to his nationality. Where a person resides in one State in such a manner as to be deemed to have become domiciled therein, and yet by nationality is the subject of another, he is regarded as an enemy if the State of his domicile is an enemy State, although it may be that the State of his nationality is neutral, and *vice versa*.

If a person during the war voluntarily resides and establishes a trade in a State, he will be regarded as domiciled in that State, and a neutral or an enemy (for civil and trading purposes) according as the State is a neutral or an enemy State. Residence is the main fact to be taken into consideration (see *Tabbs v. Bendelack*, 4 Esp. 107).

It may be doubted whether a person can ever lawfully be treated as an enemy or a neutral for civil and commercial purposes generally by reason of his domicile in a State, unless he has *personally* resided in that State.

It is quite true that it has been held that a domicile can be acquired without personal residence by a person in a State where he has established a trade, and has carried it on during the war; but the effect of his so doing has been held to entitle the belligerent State to regard him and his property as clothed with enemy character in respect only of his property and commercial rights connected with the trade carried on by him *in that particular country*, his civil and trading status in other countries remaining unaffected (see *The Vigilantia*, 1 C. Rob. 15; *The Jonge Klussina*, 5 C. Rob. 297; *The Portland*, 3 C. Rob. 41; *McConnell v. Hector*, 3 B. & P. 113; *The Indian Chief*, 3 C. Rob. 12; *The Harmony*, 2 C. Rob. 322; *The Danous*, 4 C. Rob. 255 (n.); *The Freundschaft*, 4 Wheat. 105; *The San Jose Indiano*, 2 Gallison, 268).

The case of *The Anna Catharina* (4 C. Rob. 119), in which an American merchant who carried on a trade in Spanish territory, through an agent and without personal residence, was deemed to have acquired, *in respect of that trade*, the civil status of a subject of Spain, really turned upon the peculiar nature of the

particular trade—a privileged monopoly of the tobacco trade in a Spanish settlement—which it was held, to be unlikely that Spain would grant to anyone other than an adherent of her own State.

Lord Lindley has expressed an opinion in the House of Lords upon the question of the acquisition of a civil status through establishing a trade in a State as follows: “when considering questions arising with an alien enemy, it is not the nationality of a person, but his place of business during war that is important. An Englishman carrying on business in an enemy’s country, is treated as an alien enemy in considering the validity or invalidity of his commercial contracts. (*McConnell v. Hector*.) Again, the subject of a State at war with this country, but who is carrying on business here or in a foreign neutral country, is not treated as an alien enemy; the validity of his contracts does not depend on his nationality, nor even on what is his real domicile, but on the place or places in which he carries on his business or businesses (*Wells v. Williams*, 1 Salk. 46). As observed by Sir William Scott in *The Jonge Klassina*: ‘A man may have mercantile concerns in two countries, and if he acts as a merchant in both he must be liable to be considered as a subject of both *with regard to the transactions originating, respectively, in those countries*. That he has no fixed counting-house in the enemy’s country will not be decisive.’” (*Janson’s Case*, (1902) A. C. at p. 505.)

It is submitted that Lord Lindley must not be taken to have laid down that where a person establishes a business in one particular State, *without residing therein*, that his civil and commercial status in *all countries* is thereby affected.

It is submitted that the effect of establishing a

business without residence in a State, only affects a person's civil and commercial rights *quoad* the trade carried on in that particular country, and that his civil and commercial status elsewhere is determined by the law of his domicile acquired by residence, or, if he has not acquired any domicile elsewhere, his status will depend upon his nationality.

All persons are not traders, and in the case of a non-trader, civil status during war is usually fixed by determining whether the country in which he is voluntarily residing is an enemy country or not.

The true rule was laid down by Lord Stowell in *The Harmony* (2 C. Rob. 322) as follows:—

“Of the few principles which can be laid down generally, I may venture to hold that time is the grand ingredient in constituting domicile. I think that hardly enough is attributed to its effects; in most cases it is unavoidably conclusive: it is not infrequently said that if a person comes only for a special purpose that shall not fix a domicile. . . . A special purpose may lead a man to a country where it shall detain him the whole of his life. . . . I cannot but think that against such a long residence the plea of a special purpose could not be averred; for it must be inferred in such a case that other purposes forced themselves upon him and mixed themselves with his original design, and impressed upon him the character of the country where he resided. Suppose a man comes into a belligerent country at or before the beginning of a war; it is certainly reasonable not to bind him too soon to an acquired character and to allow him a fair time to disengage himself; but if he ~~continue~~ to reside during a good part of the war, contributing, by payment of taxes or other means, to the

strength of the country, I am of opinion that he could not plead his special purpose with any effect against the rights of hostility. . . . Time is the great agent in this matter; it is to be taken in a compound ratio of the time and the occupation, with a great preponderance on the article of time."

Moreover, in order to stamp a person with the character of an alien enemy it is not enough to prove that at some time or other before the commencement of the war such person by residence or trading had possessed a domicile, so far as civil status was concerned, in the enemy State. "The character that is gained by residence ceases by residence. It is an adventitious character, which no longer adheres to him from the moment that he puts himself in motion *bonâ fide* to quit the country, *sine animo revertendi*." (*The Indian Chief*, 3 C. Rob. 20; *Harman v. Kingston*, 3 Camp. 150.) The question, then, in each case where the issue arises whether a particular person is clothed with enemy character or not is, has it been proved that such person by voluntarily residing or trading during the war in the enemy State has become so identified with the enemy State as to be regarded as one of its subjects?

The meaning of the term "alien enemy" when used in reference to civil rights and liabilities was considered in some detail by the Court of Appeal in the recent case of *Porter v. Freudenberg*, (1915) 1 K. B. 857. Lord Reading, C. J., who delivered the judgment of the Court of Appeal, cited the passage from Lord Lindley's speech in *Janson's Case* set out above on p. 6, and proceeded as follows:—"Lord Lindley's statement was not intended to be, and is not, exhaustive. His Lordship, for the purposes of the appeal then before the House of Lords, was considering the

character of a trading corporation, and did not purport to deal with persons residing but not carrying on business in the enemy territory. Such a person is equally treated as an alien enemy provided he is voluntarily resident there, having elected to live under the protection of the enemy State. For the purpose of determining civil rights a British subject or the subject of a neutral State, who is voluntarily resident or who is carrying on business in hostile territory, is to be regarded and treated as an alien enemy, and is in the same position as a subject of hostile nationality resident in hostile territory" (p. 868).

It is submitted that the meaning given to the term "alien enemy" by the Court of Appeal must be read subject to and in the light of the principles enumerated above. The Court of Appeal cannot have intended to lay down that the civil status of an individual, *generally and for all purposes*, is to be determined by ascertaining whether or not during the war he is carrying on business in hostile territory. For example, the Court of Appeal must not be taken to have decided that because an Englishman, resident and trading within the realm, and trading also in neutral and allied countries, may happen during the war also to be carrying on business in hostile territory, such a person for *all* civil purposes, or in respect of *all* his businesses, must be regarded as an alien enemy. It is, of course, clearly settled that such a person, *quoad* his civil rights in respect of the particular business carried on in hostile territory, is stamped with enemy character, but it is submitted, that in other respects his civil status is determined by his war domicile to be ascertained in accordance with the principles set out in this chapter, and that the Court of Appeal in *Porter v.*



*Freudenberg* did not, and did not intend to, impugn the rules for ascertaining war domicile above enumerated. (See *The Clun Grant*, 31 T. L. R. 321; *R. v. Kupfer*, (1915) 2 K. B. 321.)

All persons, whether they are the subjects of a Sovereign or State at war with His Majesty or not, who are voluntarily residing during the war, or (*quoad* the particular business) trading within the realm, *per licentiam et sub protectione regis* are regarded and treated as alien friends, and not as alien enemies. (*Wells v. Williams*, 1 Lord Raymond, 282; 1 Salk. 45; *Maria v. Hall*, 1 Taunt. p. 33 (n.); *Spurenburgh v. Bannatyne*, 1 B. & P. 163; *Clarke v. Morey*, 10 Johnson, 69; Foster, "Discourse on High Treason, 185; *Alcinous v. Nigreu*, 4 E. & B. 217; *Princess Thurn and Taxis v. Moffitt*, (1915) 1 Ch. 58; *R. v. Kupfer*, (1915) 2 K. B. 321. (*Porter's Case*, *supra*.) As to Armenians, Greeks, Syrians, &c., see the Aliens Restriction (Armenians, &c.) Order, 7th January, 1915, No. 4. Such persons may be granted partial exemption from Part II. of the Aliens Restriction (Consolidation) Order, 1914.

The license granted to an alien enemy to remain during the war in this country may be either express or implied, general or particular; but in every case the license must be proved, and the burthen of proof is upon the person who claims the license, and the protection of the Crown (see *Boulton v. Dobree*, 2 Camp. 162; *Alciator v. Smith*, 3 Camp. 244; *Porter's Case*, (1915) 1 K. B. at p. 872). The mere fact that the subject of a hostile State is at large within the realm, without the knowledge of the Government, is not evidence of an implied license (see *ibid.*). Such a person not having complied with the conditions upon which the subjects of a hostile State are permitted to

remain in this country is not voluntarily resident in this country in such a manner as to be deemed to possess a war domicile in this country.

It not infrequently happens that in a Proclamation declaring war it is provided that the subjects of the enemy State resident in the State declaring war shall be permitted to continue such residence so long as they peaceably demean themselves (see *Porter's Case, supra*, at p. 870). As instances of alien enemies being permitted to remain in the territory of a belligerent during good behaviour, reference may be made to the permission given by Great Britain to French subjects in 1756 and to Spanish subjects in 1762, and to the Treaty of 1795 between Great Britain and the United States (see also 9 Henry III. c. 30, and Bacon's Abridgment, 7th ed., vol. 1, p. 183).

No such permission, however, was included in the Declaration of War by Great Britain in the present conflict.

By the Aliens Restriction (Consolidation) Order, 1914 (see Appendix, p. 94), conditions are set out relating to registration, residence, &c., with which it is incumbent upon alien enemies residing in this country to comply. "Under that Act (The Aliens Restriction Act, 1914) and Order, the alien enemy suffers certain restrictions upon his ordinary rights of movement; the Secretary of State may order his deportation, and so on, and there can be no doubt that the effect of such registration is to amount at least to a license to the person to remain in this country; indeed, as I gather from the provisions of the Order, the permission really amounts to a command to the alien enemy not to depart from this country without some special leave for the purpose"

(per Sargant, J., *Princess Thurn and Taxis v. Moffitt*, (1915) 1 Ch. at p. 61). An alien enemy who complies with the provisions of the Order is placed in the same position so far as his civil status is concerned as an alien friend resident here under the King's Peace. He is here *per licentiam* and *sub protectione domini regis* (see per Reading, C. J., in *Porter's Case*, (1915) 1 K. B. at p. 874).

The civil status of prisoners of war is not clearly settled. By the Hague Convention No. 4 of 1907 Regulations, Article 3, "the *armed forces* of the belligerents may consist of combatants and non-combatants. In the case of capture by the enemy both have the right to be treated as prisoners of war." All persons called to arms, and all persons who as reservists or otherwise are liable to be called up for active military service are, of course, if captured or detained, entitled to the privileges of prisoners of war.

Every non-combatant, however, is not entitled, if captured, to be so treated, but only those who are rendering services auxiliary or incidental to the operations of the combatants. The heads and important officials of the enemy State may also be made prisoners of war, and other persons such as war correspondents, &c. are by Art. 13 of the same Convention entitled to be so regarded.

Non-combatant alien enemies who do not bring themselves within one of the above classes are not, it is submitted, if detained by the Government of this country, entitled to be treated as, or deemed to be, prisoners of war.

The observations of Mr. McKenna, the Home Secretary, in the House of Commons on the 12th and 26th November, 1914, in so far as they are inconsistent

with this contention (see Hansard, vol. 68, cols. 98 and 1396), appear to be inaccurate. The Regulations with regard to prisoners of war in Chap. II. of the Hague Convention No. 4 of 1907 are in many respects inapplicable to alien enemies who are mere civilians, and would seem to support the view that such persons are not prisoners of war. The civil status of the subjects of a hostile State interned in this country, whether as prisoners of war or in their own interest or for the public welfare, is determined by their war domicile in accordance with the principles stated in this chapter. Prisoners of war are necessarily deemed to be adhering to the King's enemy. No doubt, for certain purposes, they are *sub protectione regis* (for example, if a private person were to slay a prisoner of war, he would commit murder, see 1 Hale, P. C. 433; *Maria v. Hall*, 1 Taunt. at p. 36); but such persons are not voluntarily resident in this country, and as prisoners of war will preserve the domicile which they possessed before they were captured (see Halleck, I. L., 4th ed., vol. 1, p. 457).

Prisoners of war are not entitled to move for a writ of *habeas corpus* (see the case of the *Three Spanish Sailors*, 2 W. Bl. 1324), and it is submitted that their civil status is that of alien enemies, except in so far as their civil disabilities are removed by license of the Crown or of its authorised agents. The two cases of *Sparenburgh v. Bannatyne* (1 B. & P. 163) and *Maria v. Hall* (1 Taunt. p. 33) are sometimes referred to as supporting the contention that prisoners of war, as such, and even when in confinement, are entitled to enjoy civil rights, *e.g.*, the right to sue for wages for services rendered.

It is urged that they possess a "protection arising

from situation" (see 1 Taunt. p. 37), and are to be regarded as persons residing here by permission of the Crown. Such persons, however, although *sub protectione regis* for certain purposes, are not *voluntarily* residing here by permission of the Crown, and it is submitted that neither *Sparenburgh v. Bannatyne* nor *Maria v. Hall* support the proposition that prisoners of war are to be clothed with the status or invested with the rights of persons voluntarily resident here *per licentiam regis*.

Prisoners of war may, of course, receive permission to work either in the service of the belligerent State, or for private persons, or on their own account (see Hague Convention No. 4 of 1907 Regulations, Art. 6). They may also be released *en parole*.

In such cases as these prisoners of war may, indeed, exercise such civil rights as are reasonably necessary to enable them to enjoy the privileges which *per licentiam regis* they possess. But except within the ambit of a license, it is submitted that prisoners of war possess the civil status which flows from their war domicile.

Now in *Sparenburgh v. Bannatyne* the contract of service was made by the permission of the King's officer, and amounted to a license by the Crown (see *per* Heath, J., at p. 171). In *Maria v. Hall* no judgment was given, and in this case also the contract of service was made with the consent of the person entrusted with the conveyance of the plaintiff as a prisoner of war to London, and may have been regarded as having been made under a license by the Crown (see *Alcinous v. Nigricu*, 4 E. & B. 217), and further it is to be observed that Rooke, J., who took part in the trial of both actions, in *Sparenburgh v.*

*Bannatyne* was of opinion that the prisoner of war in that case was in a position analogous to that of a prisoner of war on parole, who may be entitled to enter into contracts at any rate in respect of "necessaries," but who derives his capacity to do so from the license of the Crown, which is implied in the grant of the privilege of being "en parole."

The civil status of the subjects of a hostile State who are interned, but who are not prisoners of war, is, it is submitted, to be determined in accordance with the same principles. Such persons preserve the war domicile which they possessed prior to their internment. If at the time of their internment they had complied with the regulations to which such persons are obliged to conform in order to receive permission to remain in this country, and had in that manner voluntarily become resident here *per licentiam regis*, it is submitted that they are to be regarded as alien friends for civil purposes, notwithstanding their internment. If they have failed to comply with the stipulated regulations, they are deemed to be alien enemies, except in respect of any business which they may be carrying on in allied, neutral, or British territory. In neither case is the fact that they have been interned for reasons resulting from the war a material element for consideration in determining their civil status. For the civil status of companies, see Chapter VII., and for the persons against whom the emergency legislation in respect of patents, designs, and trade marks is directed, see pp. 36 to 38 *infra*, and 88.

## CHAPTER II.

### THE STATE AND THE PERSONS OF ALIEN ENEMIES.

THE object of this treatise being to enable non-combatant alien enemies to understand the legal position into which the commencement of hostilities throws them, it is unnecessary to deal at length with the treatment which by international law belligerents are entitled to mete out to the persons or property of combatant alien enemies.

#### (a) *Non-combatant alien enemies in an invaded territory.*

Ever since the eighteenth century it has been the universal practice of belligerents, following a recognised rule of the law of nations, not to kill or attack non-combatant alien enemies or to intern them. Such persons are, of course, subject to the indirect risks to their persons and property which appertain to the operations of war; for example, during the bombardment of a town. Further, non-combatant alien enemies must be of good behaviour, and although not subjected to the necessity of taking part in the operations of war against their own country, such persons may be forced to render services for the needs of the invading army, and must submit to restrictions imposed upon them for many purposes, especially that of ensuring the safety of the armed forces of the invaders; the attitude of belligerents towards the non-combatant inhabitants of

an enemy country may be summed up by stating that the family honour and rights, the lives, private property, and the religious convictions and liberty of non-combatant alien enemies must be respected by belligerent invaders (see Hague Convention No. 4 of 1907, Reg. Art. 46). How far the practice of Germans falls short of the theory entertained by the German Government as to what are the rights of non-combatants in an invaded country is shown by the following passage :

“ As regards the personal position of the inhabitants of the occupied territory, neither in life or in limb, in honour or in freedom, are they to be injured ; every unlawful killing ; every bodily injury, due to fraud or negligence ; every insult ; every disturbance of domestic peace ; every attack on family, honour, and morality, and, generally, every unlawful and outrageous attack or act of violence are just as strictly punishable as though they had been committed against the inhabitants of our own land.” (Usages of War on Land, issued by the Great General Staff of the German Army, translated by Morgan, 1915.)

Hostages may be seized and detained by a belligerent to ensure the payment of contributions or compliance with requisitions (see as to these Hague Convention No. 4 of 1907, Reg. Arts. 49 to 52). A belligerent may take hostages to secure the good conduct of the inhabitants of enemy territory in his occupation.

Hostages may also be seized and detained as a form of reprisal.

Any subjects of the State against which it is sought to make reprisals may be seized and detained (see Vattel, *Droit des Gens*, liv. ii. ch. xviii. sect. 351).



No attempt appears to have been made at the Conferences at the Hague to define or limit the right of reprisal, but by Hague Convention No. 4 of 1907, Regulations, Art. 50, "No collective penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which it cannot be regarded as collectively responsible."

During the Franco-German War of 1870 the Germans, in order to prevent damage being done to the railways during their occupation of French territory, placed well-known French civilians on the engines of trains utilised by the Germans. Whether such an act of reprisal can be justified under the law of nations would appear to be extremely doubtful, for by usage among civilised nations it is established that, except during an attempt to escape, hostages may not be put to death or intentionally exposed to the danger of losing their lives. The non-combatant inhabitants of territory which is occupied by the enemy who commit acts which tend to prejudice the safety of the forces in occupation are guilty of *war treason*, and are liable, if convicted, to be put to death (see Oppenheim, I. I. vol. 2, 2nd ed., p. 314).

(b) *Non-combatant alien enemies in a belligerent's own territory.*

The position of such persons is, upon the commencement of war, one of some difficulty. In the absence of binding treaty stipulations, a belligerent is entitled to arrest, or to expel any non-combatant alien enemies in the territories of such belligerent State. The only modern instance prior to the present war in which non-combatant alien enemies have been arrested was in 1803, when Napoleon arrested and

detained—in many instances until 1814—10,000 British subjects found in France.

This detention of British subjects by Napoleon has always been regarded as an extremely high-handed proceeding, and in 1756 Great Britain gave express permission to French subjects, then resident in Great Britain, to remain in the country on condition that they behaved themselves “dutifully.” In later years treaties were made to enable alien enemies to remain in the territories of the belligerents, a notable instance being the treaty between England and the United States of America in 1795, in which it was provided that merchants and other alien subjects “shall have the privilege of remaining or continuing their trade, so long as they behave peaceably and commit no offence against the laws.”

An option to withdraw from the country is usually granted to alien enemies. The length of time within which alien enemies may withdraw varies in many of the treaties and in different States, but is usually within from six months to twelve months after the commencement of the war. By international usage they are, at any rate, entitled to “*un délai suffisant*.”

By a notice issued on 5th August, 1914, by the Home Secretary, pursuant to Article 10 of the Aliens Restriction Order, 1914, No. 1161, it was provided that alien enemies might embark at approved ports without permits from the Home Secretary before 11th August (see *R. v. Ahlers*, (1915) 1 K. B. at p. 618).

Notwithstanding the general practice of civilized nations to allow alien enemies an option of remaining in the belligerent's territory during good behaviour, or of withdrawing within a specified period, neither the detention nor the expulsion of such persons would

be a breach of international law. The right of expulsion has been exercised in recent wars, notably in the Boer War (1899—1902) and in the Russo-Japanese War (1904—1905), and any serious breach of good behaviour on the part of an alien enemy might be visited with punishment and would properly and probably be followed by an order of expulsion. In the great war which is now being waged Great Britain has sensibly revived the right of detention. The system of compulsory military service, followed by a period in the reserve, has resulted in many thousands of alien enemies remaining in this country, who, if they had been permitted to leave the country, would without a doubt have found their way into the active forces of the enemy.

The personal freedom of alien enemies is further curtailed by the provisions of the Aliens Restriction Act, 1914 (4 & 5 Geo. V. c. 12), and the Orders in Council made thereunder (see Appendix, p. 91).

Under the Aliens Restriction (Consolidation) Order, 1914, Part I. (see Appendix, p. 94), alien enemies are not entitled to land (Art. 3) or to embark (Art. 10) at an approved port without the permission of the Secretary of State. The Secretary of State may order the deportation of any alien (Art. 12 (1)). The above provisions of this Order do not apply, however, to prisoners of war, or children appearing to be under the age of fourteen years (Art. 16).

Under Part II. of the same Order, alien enemies are not allowed to enter or reside in certain prohibited areas (Art. 18), and may by order of a Secretary of State be required to reside in any specified place (Art. 17). Alien enemies, wherever resident, must comply with stringent regulations as to

registration (see Arts. 19, 20). Alien enemies are not permitted without a permit from the proper officer to travel more than five miles from their registered place of residence (Art. 21), or to be in possession of fire-arms, &c. (Art. 22). Clubs habitually frequented by alien enemies may be closed (Art. 25), and the circulation of newspapers in certain circumstances (Art. 23), and the carrying on of banking business (Art. 24) without the permission of the Secretary of State is prohibited.

Breaches of the Order are visited with severe penalties (Arts. 26, 27, 28, 29).

By Art. 1 of the Aliens Restriction (Change of Name) Order, 1914, 8th October, 1914, No. 1478, it is provided that:—

“25A. An alien enemy shall not, after the twelfth day of October nineteen hundred and fourteen, for any purpose assume or use, or purport to assume or use, or continue the assumption or use of any name other than that by which he was ordinarily known at the date of the commencement of the war.

• “Where an alien enemy carries on or purports or continues to carry on, or is a member of a partnership or firm which carries on or purports or continues to carry on any trade or business under any name other than that under which the trade or business was carried on at the date of the commencement of the war, he shall, for the purposes of this Order, be deemed to be using or purporting or continuing to use a name other than that by which he was ordinarily known at the date of the commencement of the war.

• “Nothing in this Article shall affect the right of a woman, who after the commencement of the war

marries an alien enemy to use the name which she acquires on her marriage.

“A Secretary of State may, if it appears desirable in any particular case, grant an exemption from the provisions of this Article.”

Under Art. 46 of the Defence of the Realm (Consolidation) Regulations, 1914 (see App. p. 141), any person found in possession of a false passport, or, being an alien enemy, passing under an assumed name, is guilty of an offence.

Under the Aliens Restriction (Amendment) Order, 1915 (see App. p. 122), further requirements are made in respect of passports (Arts. 1 and 2), and the keepers of every hotel, inn, boarding-house, and lodging-house are required to keep a register containing a full description of all persons over the age of fourteen years staying therein. (Art. 3.)

On the 13th May, 1915, the Prime Minister announced in the House of Commons that “persons of hostile origin” residing in this country (by which expression it is presumed that alien enemies by nationality were intended), would be treated as follows:—

(1) Adult non-naturalised males (a) of military age would be interned; (b) over military age would be repatriated.

(2) Adult naturalised males would be similarly treated, provided that in respect of Class (1) if the persons included therein could establish before an advisory body appointed *ad hoc*, that “justice and humanity” required that they should be exempted from the specified treatment, they might be permitted to continue their residence on the conditions otherwise obtaining. In the case of Class (2), the burden would be reversed, and such persons would not become

subject to the special treatment, unless a case were to be made out before the advisory body for so treating them.

Women and children would become liable to be repatriated subject to the same conditions (Hansard, Vol. 71, p. 1814).

Further restrictions are placed upon alien enemies and persons of hostile origin or associations by the Defence of the Realm Consolidation Act, 1914 (5 Geo. 5, c. 8, and Regulations thereunder, see p. 130).

S. 1 of the Act provides as follows :

1.—(1) His Majesty in Council has power during the continuance of the present war to issue regulations for securing the public safety and the defence of the realm, and as to the powers and duties for that purpose of the Admiralty and Army Council and of the members of His Majesty's forces and other persons acting in his behalf ; and may by such regulations authorise the trial by courts-martial, or in the case of minor offences by courts of summary jurisdiction, and punishment of persons committing offences against the regulations and in particular against any of the provisions of such regulations designed—

- (a) to prevent persons communicating with the enemy or obtaining information for that purpose or any purpose calculated to jeopardise the success of the operations of any of His Majesty's forces or the forces of his allies or to assist the enemy ; or
- (b) to secure the safety of His Majesty's forces and ships and the safety of any means of communication and of railways, ports, and
  - harbours ; or
- (c) to prevent the spread of false reports or reports

likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces by land or sea or to prejudice His Majesty's relations with foreign powers ; or

- (d) to secure the navigation of vessels in accordance with directions given by or under the authority of the Admiralty ; or
- (e) otherwise to prevent assistance being given to the enemy or the successful prosecution of the war being endangered.

(2) Any such regulations may provide for the suspension of any restrictions on the acquisition or user of land, or the exercise of the power of making bye-laws, or any other power under the Defence Acts, 1842 to 1875, or the Military Lands Acts, 1891 to 1903, and any such regulations or any orders made thereunder affecting the pilotage of vessels may supersede any enactment, order, charter, byelaw, regulation or provision as to pilotage.

(3) It shall be lawful for the Admiralty or Army Council—

- (a) to require that there shall be placed at their disposal the whole or any part of the output of any factory or workshop in which arms, ammunition, or warlike stores or equipment, or any articles required for the production thereof, are manufactured ;
- (b) to take possession of and use for the purpose of His Majesty's naval or military service any such factory or workshop or any plant thereof ;

and regulations under this Act may be made accordingly.

(4) For the purpose of the trial of a person for an offence under the regulations by court-martial and the punishment thereof, the person may be proceeded against and dealt with as if he were a person subject to military law and had on active service committed an offence under section five of the Army Act :

Provided that where it is proved that the offence is committed with the intention of assisting the enemy a person convicted of such an offence by a court-martial shall be liable to suffer death.

(5) For the purpose of the trial of a person for an offence under the regulations by a court of summary jurisdiction and the punishment thereof, the offence shall be deemed to have been committed either at the place in which the same actually was committed or in any place in which the offender may be, and the maximum penalty which may be inflicted shall be imprisonment with or without hard labour for a term of six months or a fine of one hundred pounds, or both such imprisonment and fine ; section seventeen of the Summary Jurisdiction Act, 1879, shall not apply to charges of offences against the regulations, but any person aggrieved by a conviction of a court of summary jurisdiction may appeal in England to a court of quarter sessions, and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts ; and in Ireland in manner provided by the Summary Jurisdiction (Ireland) Acts.

(6) The regulations may authorise a court-martial or court of summary jurisdiction, in addition to any other punishment, to order the forfeiture of any goods in respect of which an offence against the regulations has been committed.

The Defence of the Realm (Consolidation) Regula-



tions, 1914, were made pursuant to this statute on the 28th November, 1914 (see Appendix, p. 125).

Wide powers are conferred thereby upon "the competent naval or military authority and any person duly authorised by him" (see Regulations, *passim*). As to who is "a competent naval or military authority," see Art. 62.

Particular attention should be paid to the provisions of Art. 24 (non-postal communications); Art. 27 (spreading false reports or statements likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces, or with recruiting, &c.); Arts. 49 and 50 (general duties and prohibitions).

A person charged with an offence declared by the Regulations to be a summary offence is to be tried *only* before a Court of summary jurisdiction (Art. 56, Appendix, p. 144).

An alien enemy charged with other offences under the Regulations may be tried either by court-martial, or by a civil court with a jury, or summarily at the discretion of the "competent military authority" (see Arts. 56 and 57; and Defence of the Realm (Amendment) Act (5 Geo. V. c. 34), and Orders in Council of 23rd March and 13th April, 1915).

The right granted to British subjects under sect. 1(2) of the Defence of the Realm (Amendment) Act (5 Geo. V. c. 34) is not extended to alien enemies.

For proceedings by courts-martial, see Army Orders Nos. 510 and 397 of 1914.

It remains to consider the position of alien enemies under the criminal law of this country.

The unlawful killing of an alien enemy within the realm, "unless it be in the heat of war, and in the actual exercise thereof," would be murder (1 Hale,

P. C. 433). It is further submitted that any injury inflicted upon the *person* of an alien enemy, which, if committed against the person of an alien friend would amount to a criminal offence, renders the person perpetrating the act liable to criminal proceedings. The same result would follow if the injury were done to a person of hostile nationality, whether such person was residing here *per licentium regis* or not. The ground upon which the Court would inflict punishment for the commission of such an act would appear to be not so much because the injured person is regarded as being *sub protectione regis* as because the commission of the offence would involve a breach of the King's peace.

The extent to which alien enemies are amenable to the criminal jurisdiction of the King's Courts is not settled.

It has been stated that the rule stated above would apply where an alien enemy is charged with murder (see Archbold's Criminal Pleading, 24th ed. at p. 873), and there seems to be no ground for differentiating murder, for this purpose, from any other criminal attack upon the person. The view set out in Archbold's Criminal Pleading, *supra*, however, appears to be too wide. The amenability of alien enemies to criminal jurisdiction depends, it is submitted, upon the extent to which such persons owe allegiance to the Crown. *Protectio trahit subjectionem et subjectio protectionem*. Allegiance is not necessarily permanent, but may be local or transitory, and if the latter, it results not from the protection which in fact is received, but from the protection which the Crown owes, and ought to afford (see *De Jager v. A.-G. of Natal*, (1907) A. C. p. 326).

It would follow from the above principles that prisoners of war, as such, who owe no allegiance to the Crown of this country, are not amenable to criminal process; although, no doubt, if they accept a qualified freedom *en parole*, or consent to receive the protection of the Crown which flows from the grant of a license, they immediately become under a corresponding obligation "so to act that the Crown shall not be harmed by reason of its having admitted them as residents" (*per* Loreburn, L. C., in *De Jager's Case*, *supra*, at p. 329), or having granted to them the license. On the other hand, alien enemies who are resident here *per licentiam regis*, whether interned or not, owe a temporary allegiance to the Crown, and so long as they continue so to reside here, it is submitted that they are amenable to the criminal jurisdiction of the King's Courts (see also *Calvin's Case*, 4 Coke Rep. 1; *Perkin Warbeck's Case*, 4 Coke Rep. 11; Coke's Third Inst. p. 10; 1 Hale, P. C. 94; Foster, Cr. Cases, 1st Discourse, p. 185; Forsyth's Cases and Opinions, p. 199; *R. v. Tucker*, 1 Lord Raymond 1; Bac. Abridg. vol. 1, p. 178; *Moliere's Case*, Fost. 188, n.; *R. v. Depardo*, 1 Taunt. 26; *R. v. Johnson*, 6 East, 583). A British subject cannot repudiate his nationality during war by leaving British territory, or by becoming naturalised in the enemy State (*R. v. Lynch*, (1903) 1 K. B. 444), but it is submitted that an alien enemy may be naturalised here even during the continuance of war with the State of which he is a subject.

An alien, the subject of a State at peace with His Majesty, who levies war against His Majesty within the realm, is guilty of treason (see Forsyth's Cases, p. 200).

By Art. 3 of the Hague Convention No. 4 of 1907,

a belligerent "shall be responsible for all acts committed by persons forming part of its armed forces."

Is it permissible for a belligerent to hold individual members of the armed forces of the enemy personally responsible for acts committed in violation of the recognised laws of war?

The view is widely held by jurists that if such acts are committed by combatants pursuant to *orders issued by or on behalf of the Government of the State to which they belong*, it is not lawful for the belligerent to visit the individual combatants with punishment, but to hold responsible the authorities or superior officers by whose orders the acts in violation of the laws of war were committed (see Oppenheim, I. L., 2nd ed., vol. 2, p. 310; Hall, I. L., 6th ed., p. 306), and in default of satisfaction to have recourse to reprisals. It may be doubted, however, whether this view is wholly accurate.

*Respondent superior* is never, according to English law, admitted as a valid defence to a criminal charge. The true view would seem to be that, in cases where acts in breach of the laws of war are committed by combatants *acting under orders* from commanding officers, the persons responsible for the orders given may be visited with punishment, and also the individual combatants who carried out the orders, provided that such individual members of the armed forces of the enemy may reasonably be held to have known at the time when the lawless acts were committed, that such conduct would amount to a violation of the recognised laws of war (see *McLeod's Case*, cited in Hall, I. L., 6th ed., p. 306; Holland, *Laws of War on Land*, pp. 59, 60; Pitt Cobbett's *Cases*, p. 114).

*Spies*, that is, persons who clandestinely, or in disguise or by false pretences, seek within the

enemy's territories to obtain information for the use of the Army of the State in whose service they are acting, are liable to be tried by court-martial and hanged or shot (see Hague Convention No. 4 of 1907, Regulations, Arts. 29, 30, 31; and Defence of the Realm (Consolidation) Regulations, 18 to 26, and 57; Official Secrets Act, 1911 (1 & 2 Geo. 5, c. 28)).

The effect of the conditional permission which is given to alien enemies to remain in this country upon their contractual capacity is discussed in Chapter VI.

### CHAPTER III.

#### THE STATE AND THE PROPERTY OF ALIEN ENEMIES ON LAND.

(a) *The private property of alien enemies during belligerent occupation.*

NON-COMBATANT alien enemies are not usually affected by any right of an invader during belligerent occupation to seize the public property of the invader, except indirectly by the right of the invaders to seize the cash, funds and realizable securities belonging to the State.

By Art. 46 (Reg.) of the Hague Convention No. 4 of 1907 the private property of enemies found during belligerent occupation cannot be confiscated.

The invaders may seize certain articles belonging to non-combatant enemies, such as war materials, &c., and may levy requisitions, contributions and fines—that is, (1) articles of consumption for the use of the invading army, (2) a special levy for the purpose of providing funds for the immediate necessities of the invading army, and (3) fines exacted from a district as a punishment for offences against the invading State committed within the district.

But, except in the case of fines, all such articles and levies must eventually be paid for or refunded to the non-combatants from whom they have been taken, either during or at the conclusion of the war.

Real property and the produce of real property situate in the territory of an enemy State, and which by its nature is necessarily associated with the State in which it is located, is always regarded as enemy property, whether it is owned by a neutral or an enemy person (*The Phoenix*, 5 C. Rob. 20). Other property on land possesses the enemy or neutral character of its owner, as to which see Chapter I.

(b) *The private property of alien enemies found within the territory of a belligerent State.*

There is one form of private property belonging to alien enemies which a State has no right to confiscate, that is, money lent by alien enemies to the State itself. Under no circumstances would a State be entitled to confiscate the stock held by alien enemies in its public funds, or to refuse to pay interest upon the loan.

The real basis of this international rule is, not that such an action would involve a breach of faith on the part of the State which has confiscated the stock, and thereby repudiated its own engagement, but upon the difficulty which any State would experience in endeavouring to float a public loan, if reliance could not be placed by prospective lenders upon the punctual and certain fulfilment by the State of its public financial obligations (see, however, *Trading with the Enemy Act*, 1915, s. 1).

In respect of other property, moveable or immovable, belonging to alien enemies within the jurisdiction of the belligerent State, the opinion is expressed by many well-known authorities on international law, that it cannot definitely be stated that the confiscation of such property would involve a breach of settled international law (see Hall, I. L., 6th ed.,

p. 435; also Dr. Lushington in *The Johanna Emilie*, Spinks, 12; *Hamilton v. Eaton*, 2 Martin, N. Carol. R. 83; and *Brown v. U. S.*, 8 Cranch, 110).

There is, however, a strong feeling among civilised States against the retention or exercise of such a right in the territory of a belligerent, and so far as this country is concerned, in 1817, in an action in which the assignees in bankruptcy of British subjects in partnership sought to recover a debt due from a Danish subject to the British partners, and which debt had been sequestrated and seized by the State of Denmark under an Ordinance by which all ships, goods, money and money's worth of or belonging to English subjects were declared to be sequestrated and detained, Lord Ellenborough decided that the payment to the Danish Government under the Ordinance was no defence to the claim, and gave judgment for the plaintiff on the ground that the Danish Ordinance was "not conformable to the usage of nations" (*Wolff v. Oxholm*, 6 M. & S. 92; see *The Roumanian*, (1915) P. 26).

The principles of international law would not, it is submitted, in any case be violated by the seizure and detention during the continuance of hostilities of the private property of non-combatant alien enemies situated or found in the territory of a belligerent. A State might reasonably believe that the sanction of Orders in Council or even of an Act of Parliament prohibiting the conveyance of such property out of the realm, whether it consisted of money, securities, materials of war, or other chattels, would not be effective to prevent the transference of such property to the territory of the enemy, and it would not be a violation of international law that the State should seize and detain such property during the continuance



of hostilities in its own interests. It is not unimportant to point out that in 1794, by the statute 34 Geo. III. c. 79, Parliament took steps to detain within Great Britain during the war with France the moneys, securities, chattels and debts of French subjects.

It would be lawful for a State according to international law to bar the remedy of the creditors of alien enemies, and to compel payment of the debts of alien enemies for the use of the public. Whether it is prudent for a belligerent to confiscate the property of alien enemies in its territory is a matter rather of policy than of law. It may in some cases be both common sense and simple justice to do so, for the confiscation of debts and other choses in action "as well as that of property of any kind, may serve *as an indemnity for the expenses of war, and as a security against future aggression*." That such confiscations have fallen into disuse, has resulted not from the duty which one nation, independent of treaties, owes to another, but from commercial policy which European nations have found a common and indeed a strong interest in supporting" (*per* Elsworth, C. J., in *Hamilton v. Eaton*, *supra*; see also Hale, P. C. vol. 1, p. 95, and *Porter's Case*, *supra*).

The declaration of war does not automatically divest alien enemies of their property in this country and transfer such property to the State. It would not, however, be necessary for the Government to obtain an Act of Parliament for the purpose, and it is submitted that such property could be confiscated by the act of the executive authority (see *The Emulous*, 1 Gall. 563; *Brown v. United States*, 8 Cranch, 110). Until confiscation the ownership of such property remains

in the alien enemies. Alien enemies resident in this country during the war, *per licentiam et sub protectione regis* (as to such persons, see Chapter I.), are entitled during the war to invoke the civil and also the criminal jurisdiction of the Courts for the protection of their persons and property from injury (*Princess of Thurn and Taxis v. Moffitt*, (1915) 1 Ch. 58; *Porter's Case*, (1915) 1 K. B. 857; *Continental Insurance Co. v. Mannheim*, (1915) 1 K. B. 155).

Alien enemies not so resident possess during the war no civil rights or privileges (see Blackstone's Coms., 21st ed., vol. 1, c. 10, p. 372; Hale's P. C., vol. 1, p. 95; *A.-G. v. Weeden* (1699); Parker's Rep. 267; 4 Coke, 29; Coke Litt. 129 (b); *Joyner's Case*, 2 Dyer, 245 (b); *Sylvester's Case*, 7 Mod. 150; *Anthon v. Fisher*, Douglas, 648; *Antoine v. Morshead*, 6 Taunt. 237; *Pisani v. Lawson*, 6 Bing. N. C. 90; *Netherlands South African Railway Co. v. Fisher*, 18 T. L. R. 116; Tomlin's Law Dict., vol. 1, tit. "Alien"; *R. v. Kupfer*, (1915) 2 K. B. 321; *Porter's Case*, *supra*, and cases there cited). *Ex parte Boussmaker* (13 Ves. 71), in which alien enemies were allowed to enter a claim as creditors, during the war, under a commission for bankruptcy, was a very special case, and is not to be regarded as an authority that an alien enemy is entitled to bring an action or present a petition during the war (see per Lord Reading, C. J., in *Porter's Case*, (1915) 1 K. B. at p. 873 also).

The Court would probably interfere, in the exercise of its criminal jurisdiction, to prevent the property of such persons from being appropriated, destroyed, or injured by private individuals. But it is submitted that, even after the war, alien enemies, not resident during the war in this country *per licentiam et sub pro-*

*tectione regis*, would not be entitled to any redress by way of civil process in respect of injuries inflicted upon their persons or their property *during the war*; for example, assault or trespass to property. It might be contended that, so long as the Crown did not confiscate the property of alien enemies in this country, the Court would infer that the Crown had by implication permitted and licensed alien enemy owners to hold such property during the war, and that therefore, *quâ* owners of such property, they must be deemed to be alien friends; but it is submitted that such a contention ought not to prevail, as being inconsistent with the well-established rule that alien enemies, not resident here *per licentiam regis*, are not entitled to any rights or privileges (see also Brooke's Abridg. p. 167; and *Daubigny v. Davallon*, 2 Anst. 462. The decision in this case supports the general proposition laid down, and any expressions of Macdonald, C. B., which may seem to conflict with the general rule are too wide, and, it is submitted, would not be followed). At the same time, it would seem from the legislation which has been passed since the outbreak of war relating to trade marks, patents, and designs, that the Government and their advisers were not satisfied that, after the war, alien enemies would not be entitled to claim redress by legal process for infringement of their patent rights during the war (see Patents, Designs, and Trade Marks (Temporary Rules) Act, 1914 (4 & 5 Geo. V. c. 27); Patents, Designs, and Trade Marks Temporary Rules (Amendment) Act, 1914 (4 & 5 Geo. V. c. 73)). By s. 1 (1) of the Act 4 & 5 Geo. V. c. 27, as amended by s. 1 (a) of the Amendment Act (4 & 5 Geo. V. c. 73), power is conferred on the Board of Trade "to make rules and to do such things

as they think expedient for avoiding or suspending in whole or in part any patent or licence the person entitled to the benefit of which is the subject of any State at war with His Majesty ; for avoiding or suspending the registration, and all or any rights conferred by the registration, of any design or trade mark the proprietor whereof is a subject as aforesaid ; for avoiding or suspending any application made by any such person under either of the said Acts ; for enabling the Board to grant, in favour of persons other than such persons as aforesaid, on such terms and conditions, and either for the whole term of the patent or registration or for such less period, as the Board may think fit, licenses to make, use, exercise, or vend, patented inventions and registered designs so liable to avoidance or suspension as aforesaid."

And by s. 1 (b) of the Amendment Act it is provided that—

"(4) This Act shall apply to any person resident and carrying on business in the territory of a State at war with His Majesty as if he was a subject of that State ; and the expression ' subject of any State at war with his Majesty ' shall, with reference to a company, include any company the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly for the benefit or on behalf of such subjects, notwithstanding that the company may be registered within His Majesty's dominions ; and, where a patent has been granted to any person in respect of an invention declared in the application or any specification to have been communicated to him by some other person, that other person shall, for the purposes of this Act, be deemed to be the person

entitled to the benefit of the patent unless the contrary is proved."

Rules pursuant to 4 & 5 Geo. V. c. 27 were made by the Board of Trade on 21st August and 5th and 7th September, 1914, and Notices relating to procedure were issued by the Comptroller-General on 21st August and 7th September, 1914. It may be that the object of this legislation was to prevent the dissipation of the value of the patents pending possible confiscation by the State, but apart from such legislation, if the rule contended for above is sound, namely, that during war persons deemed to be alien enemies have no rights or privileges, it would follow that even after the war enemy proprietors of patent rights would not be able to obtain legal redress for infringement of their patent rights during the war.

By the Trading with the Enemy Amendment Act, 1914 (5 Geo. V. c. 12), set out in the Appendix, p. 158, s. 1, the Public Trustee was appointed for England and Wales as custodian of enemy property, "for the purpose of receiving, holding, preserving and dealing with such property as may be paid to, or vested in him in pursuance of this Act" (see Order of the Board of Trade, 2nd December, 1914).

A custodian was similarly to be appointed for Scotland and Ireland (s. 1 (3)).

By s. 5 the custodian, subject to the provisions of the Act, is to hold such property "until the termination of the present war, and shall thereafter deal with the same in such manner as His Majesty may by Order in Council direct."

The custodian may, as provided by the Act, out of the property paid to him liquidate the debts of the alien enemy (s. 5 (2) (3)).

By s. 2, provision is made for the payment to the custodian of sums "which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy, by way of dividends, interest, or share of profits." As to the meaning of these words, see s. 2 (5); also Trading with the Enemy Act, 1915, s. 1, 5 & 6 Geo. V. c. 79.

Persons who hold or manage for or on behalf of an enemy any property real or personal, including debts of £50 and upwards which are due, or which, had a state of war not existed, would have been due, to enemies, are to furnish particulars thereof to the custodian (s. 3, *In re Bank für Handel und Industrie*, (1915) 1 Ch. 848, and 5 & 6 Geo. V. c. 79, s. 2). In cases where persons entitled to the assets of a deceased person are alien enemies, the custodian will take a grant of administration (see *In the Estate of Jacob Schiff*, (1915) P. 86; *In the Estate of Grundt*, (1915) P. 126).

The High Court may vest enemy property in the custodian on application (s. 4).

Assignments of debts or other choses in action, &c., unless made before the 19th November, 1914, and *bonâ fide* and for value are invalid, if made by an alien enemy (s. 6), see 5 & 6 Geo. V. c. 79, s. 3.

Sums due on suspected coupons may be paid into Court (s. 7, and Trading with the Enemy (Suspected Coupons) Rules, 1915. See App. 188), see 5 & 6 Geo. V. c. 79, s. 3.

For the procedure under this Act, see Trading with the Enemy (Vesting and Application of Property) Rules, 1915, in Appendix, p. 179).

Transfers of securities made after the passing of the Act by or on behalf of enemies are declared to be invalid (s. 8), see 5 & 6 Geo. V. c. 79, s. 3.

“Enemy” for the purpose of this Act means “any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies enemy character attaches only to those incorporated in an enemy country” (see Trading with the Enemy Proclamation No. 2, Art. 3, 4 & 5 Geo. V. c. 87, s. 1 (2); 5 Geo. V. c. 12, s. 14; and Chapter VII., *infra*).

In accordance with modern international practice, a reasonable time is usually given within which non-combatant alien enemies are entitled to withdraw their mercantile private property from the belligerent State's territory. With regard to enemy merchant ships, the rule which formerly obtained entitled a belligerent to seize and confiscate all enemy merchant ships within its territorial waters at the outbreak of hostilities. For instance, in 1807, Great Britain seized and condemned all Danish merchant vessels in British waters. But the trend of international law in respect of such vessels is now shown in the Hague Convention No. 6 of 1907. This runs as follows:—

ARTICLE 1.—When a merchant ship belonging to one of the belligerent powers is, at the commencement of hostilities, in any enemy port, it is desirable that it should be allowed to depart freely, either immediately or after a reasonable number of days of grace, and to proceed, after being furnished with a pass, direct to its port of destination or any other port indicated to it.

The same principle applies in the case of a ship which has left its last port of departure before

the commencement of the war, and has entered a port belonging to the enemy while still ignorant that hostilities had broken out.

ARTICLE 2.—A merchant ship which, owing to circumstances beyond its control, may have been unable to leave the enemy port within the period contemplated in the preceding Article, or which was not allowed to leave, may not be confiscated.

The belligerent may merely detain it, on condition of restoring it after the war, without payment of compensation, or he may requisition it on condition of paying compensation.

ARTICLE 3.—Enemy merchant ships which left their last port of departure before the commencement of the war, and are encountered on the high seas while still ignorant of the outbreak of hostilities, may not be confiscated. They are merely liable to be detained on condition that they are restored after the war without payment of compensation; or to be requisitioned, or even destroyed, on payment of compensation, but in such case provision must be made for the safety of the persons on board as well as the preservation of the ship's papers.

After touching at a port in their own country or at a neutral port, such ships are subject to the laws and customs of naval war.

ARTICLE 4.—Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.



The same principle applies in the case of cargo on board the vessels referred to in Article 3.

ARTICLE 5.—The present Convention does not refer to merchant ships which show by their build that they are intended for conversion into war ships.

ARTICLE 6.—The provisions of the present Convention do not apply except between contracting powers, and then only if all the belligerents are parties to the Convention.

It is to be observed that Article 1 does not render it *obligatory* upon the parties to the Convention to grant days of grace, it is only stated to be *desirable* that such days of grace should be allowed. Great Britain was mainly responsible for the terms of the article being made optional. She was prompted to take this course because the size and speed of modern vessels made them suitable for conversion into war-ships and transport of coal and naval stores, as well as of men, and if largely used for this purpose the effect upon Great Britain might be very injurious.

For more than half a century, however, it has been the practice of States to allow days of grace within which such vessels, if not carrying contraband, or enemy combatants, or despatches, have been allowed to withdraw at the outbreak of hostilities, and a refusal to grant a reasonable time for withdrawal would now be regarded as inconsistent with international usage.

The length of the period of withdrawal has not always been the same, for instance—

1854. Great Britain allowed Russia 6 weeks.

1870. France                               ,,     Germany 30 days.

Germany                               ,,     France 6 weeks.

1897. Turkey allowed Greece 15 days.

Greece „ Turkey 15 days.

• 1904. Japan „ Russia 7 days.

Russia „ Japan 2 days.

Germany is not a party to Article 3 and the second paragraph of Article 4 of the Hague Convention No. 6 of 1907 (see *The Chile*, (1914) P. 212; *The Marie Glaeser*, (1914) P. 218; *The Roumanian*, (1915) P. at p. 37; *The Perkeo*, 112 L. T. 251).

By an Order in Council of 4th August, 1914, it was provided, subject to the exemptions and conditions contained in the Order, *inter alia*, that enemy merchant ships which

(1.) At the date of the outbreak of hostilities were in any port in which the Order applied; or

(2.) Cleared from their last port before the declaration of war; and after the outbreak of hostilities entered a port to which the Order applied, with no knowledge of the war, should be given ten “days of grace,” and enemy vessels which cleared from their last port before the declaration of war, and which arrived at a port in which the Order applied after the expiry of the ten “days of grace,” should be allowed to depart either immediately or after the period required for unloading.

These provisions were only to become operative if the Secretary of State was satisfied that Germany treated British vessels in German ports in like circumstances in a manner not less favourable.

Germany, however, failed to satisfy the Secretary of State for Foreign Affairs that equally favourable treatment was being accorded to British vessels in German ports, and the Prize Court has, upon the application of the Crown, made an order of detention,

subject to any further order which may be made, in the case of vessels which come within Articles 1 and 2 of the Hague Convention No. 6 of 1907, and has ordered the condemnation of vessels which come within Article 3 of the same Convention (*The Chile*, (1914) P. 212; *The Marie Glaeser*, (1914) P. 218; *The Möwe*, (1915) P. at p. 5; *The Belgia*, 31 T. L. R. 490).

Austria-Hungary, having satisfied the Secretary of State that the treatment accorded to British vessels in Austro-Hungarian ports is not less favourable than that provided by the above Order in Council, will obtain the privileges granted to Austro-Hungarian vessels under Articles 3 to 8 of the Order (see Sir E. Grey's letters to the Lords Commissioners of the Treasury and of the Admiralty of 7th and 15th August, 1914).

The Crown may, in case of need, requisition all property within the Realm, including enemy and neutral property (see Hague Convention No. 6 of 1907, Arts. 2, 3 and 4; Order in Council, 1915, No. 206; Order in Council, 1914, No. 1248, Arts. 5 and 6; Prize Court Rules, Order XXIX.; Order in Council, 1915, No. 387, Art. 4; *The Antares*, 31 T. L. R. 290; *The Zamora*, 31 T. L. R. 513; *re The Petition of Right of X.*, 31 T. L. R. 549, 596; for power of executive, see *Buron v. Denman*, 2 Ex. 167). Whether the *jus angariæ*, as at present understood, justifies the requisition of all neutral goods, or is limited to neutral merchant vessels has not been settled finally, but it is submitted that, while the Crown is entitled to requisition all neutral property within its territorial limits, the Crown is not entitled to seize or requisition neutral property when on the high seas unless it is liable to capture as being contraband or on other grounds consonant with the law of nations (see *ibidem*; and *The Fox*, Edwards, 311).

•(c) *Legal Proceedings by or against Alien Enemies.*

An alien enemy who is here *per licentiam et sub protectione regis* is entitled to sue and may be sued (*Princess Thurn and Taxis v. Moffitt*, (1915) 1 Ch. 58; *Boulton v. Dobree*, 2 Camp. 162; *Wells v. Williams*, 1 Ld. Raym. 282; 1 Salk. 45; *Janson v. Driefontein Consolidated Mines*, (1902) A. C. 484; *Alciator v. Smith*, 3 Camp. 244; *Clarke v. Morey*, 10 John. 69; 1 Kent, Com. 67; *Porter v. Freudenberg*, (1915) 1 K. B. 857, and cases there cited; cf. in Ireland, *Volkl v. Rotunda Hospital*, (1914) 2 I. R. 543). An alien enemy's wife resident here during the war *per licentiam* may sue, even although her husband is an alien enemy resident in enemy territory (see *Princess Thurn and Taxis*, *supra*).

Alien enemies who are not here *per licentiam et sub protectione regis* cannot sue during the war (see *ibidem*, and *Robinson & Co. v. Continental Insurance Co. of Mannheim*, (1915) 1 K. B. 155; *In re Mary, Duchess of Sutherland*, 31 T. L. R. 248, 394; *McConnell v. Hector*, 3 Bos. & P. 113; see also *Ex parte Boussmaker*, 13 Ves. 71; *Alcinous v. Nigreu*, 4 E. & B. 217; *The Hoop*, 1 C. Rob. 196; *W. Wolf and Sons, Ltd. v. Carr, Parker & Co.*, 31 T. L. R. 407).

Art. 23 (h) of the Hague Convention No. 4 of 1907, does not affect the rights or disabilities of alien enemies or other persons in respect of legal proceedings in this country (see *Porter's Case*, *supra*).

By the Legal Proceedings against Enemies Act, 1915 (5 Geo. V. c. 30), which is set out in the Appendix, p. 192, special provision is made for proceedings against enemies for the purpose of obtaining a declaration as to the effect of the war on the rights

or liabilities of the plaintiff or defendant under a contract entered into before the outbreak of war. Rules pursuant to the above Act were made by the Lord Chancellor on 16th March, 1915 (see Appendix, p. 194), and Directions issued by the Lord Chief Justice as to process and practice on 30th March, 1915 (see Appendix, p. 195).

As to the right of an alien enemy to appear in the Prize Court, see *infra*, p. 60.

An alien enemy may be sued during the war by persons who are not deemed to be alien enemies. (Bacon, Abrid., 7th ed., vol. 1., p. 183; *Albrectht v. Sussmann*, 2 V. & B. 323; *Robinson & Co. v. Continental Insurance Co. of Mannheim*, *supra*; *Porter's Case*, *supra*; and authorities there cited; *Dorsey v. Kyle*, 30 Mary. 512; *Clarke v. Morey*, *supra*; *McVeigh v. U.S.*, 11 Wall. 259; *De Jarnett v. De Giversville*, 56 Miss. 440.)

If cited as defendant an alien enemy may appear and be heard in his defence, and may appeal from a decision adverse to him. He may not, however, appeal during the war from an adverse judgment in a suit in which he was plaintiff, although the judgment appealed from was pronounced before the outbreak of war (see *ibidem*, and *Actiengesellschaft für Anilin Fabrikation v. Levinstein, Ltd.*, 31 T. L. R. 225). In a proper case substituted service of a writ for service out of the jurisdiction, or of a notice of such a writ will be ordered (see per Lord Reading, C.J., in *Porter's Case*, (1915) 1 K.B. at p. 889).

In *Schmidt v. Van der Veen* (31 T. L. R. 214) Rowlatt, J., held that a plaintiff, who was otherwise entitled to sue, was not debarred from bringing an action by reason of the fact that, if the defendant paid the plaintiff, the latter would thereby become under an obligation to remit the proceeds to an alien enemy.

An action brought by an English agent, resident here, on behalf of or for the benefit of an enemy, will be treated as though it were an action brought by the enemy (see *Brandon v. Nesbitt*, 6 D. & E. 23; *Bristow v. Towers*, 6 D. & E. 35; *Antoine v. Morshead*, 6 Taunton, 237). Contracts of agency with enemy principals are, it is submitted, dissolved by the war, or suspended during the war upon the principles laid down, *infra*, p. 72 (see, however, *U.S. v. Grossmayer*, 9 Wall. 72; *Williams v. Paine*, 169 U.S. 55; *New York Life Insurance Co. v. Davis*, 95 U.S. 425).

The Court will not appoint a receiver of the assets of an alien enemy with power to collect debts due to such enemy on the application of the local agent of the enemy principal (see *Maxwell v. Grunkut*, 31 T. L. R. 79; *In re Gaudig and Blum*, *Spalding v. Lodde*, 31 T. L. R. 153). The Court has no jurisdiction to appoint a receiver and manager of a business at the suit of the manager (see *ibidem*). The Court has, however, appointed a receiver of the assets of partnerships, some of the partners in which were alien enemies (see *Feldt v. Chamberlain*, 58 Sol. Journal 788; *Rombach v. Rombach*, (1914) W. N. 423, 59 Sol. Journal 90).

In both of these cases an action for dissolution of partnership had been commenced. It would seem that a receiver of the assets of a partnership, some of the partners in which are alien enemies, would be entitled to take proceedings to recover debts due to the partnership, but *quære* (*Rombach v. Gent*, 31 T. L. R. 492; *In re Gaudig and Blum*, *supra*; Trading with the Enemy Proclamation No. 2, par. 5; *In re C. Bechstein*, 58 Sol. Journal 863; *In re the Trusts of the business of C. Bechstein*, 58 Sol. Journal 864; *Armitage v. Borgman*, 59 Sol. Journal 219). If dissolution is not sought, the Court has no jurisdiction to

appoint a receiver of the assets of the partnership (*In re Kopper's Coke Oven and Bye-Product Co.*, (1914) W. N. 450). Nor will a receiver be appointed in cases which come within the Trading with the Enemy Act, 1914, s. 3 (see Appendix, p. 156; *Rombach v. Rombach*, *supra*; *In re Kopper's Coke Oven and Bye-Product Co.*, *supra*).

By sect. 3 of the Trading with the Enemy Act, 1914, as amended by sect. 11 of the Trading with the Enemy Amendment Act, 1914 (see Appendix, pp. 156 and 167), the Board of Trade may apply to the High Court for the appointment of a controller of a firm, company, or person.

The circumstances which would justify such an application by the Board of Trade are (1) that an offence under the Act has been or is likely to be committed in connection with the trade or business of the person, firm, or company; or (2) that the control or management of the business has been or is likely to be so affected by the state of war as to prejudice the effective continuance of its trade or business and that it is in the public interest that the trade or business should continue to be carried on; or (3) that the Board thinks that it is expedient in the public interest that a controller should be appointed owing to circumstances or considerations arising out of the present war.

As to procedure on such applications, see *In re Meister Lucius and Brünig, Ltd.*, 31 T. L. R. 28; (1914) W. N. 390; and *In re Kopper's Case*, *supra*.

As to legal proceedings by and against companies, see *supra*, p. 44, and Chapter VII., *infra*.

The Courts (Emergency Powers) Act, 1914 (4 & 5 Geo. V. c. 78), is not applicable to "the subject of a sovereign or State at war with His Majesty" (sect. 7).

## CHAPTER IV.

THE STATE AND THE PRIVATE PROPERTY OF ALIEN ENEMIES  
AT SEA.

THE private property of alien enemies at sea consists of either (a) *ships* or (b) *goods*.

(a) *Ships*.

All enemy ships, subject to certain exceptions referred to later, may be attacked and seized by British warships on the high seas, or within the territorial waters, ports, or roadsteads of the British Dominions or those of the enemy State, but not within the territorial waters or ports of a neutral State.

As to the meaning of the terms "high seas" and "port" in Hague Convention No. 6 of 1907, and "territorial waters" in the Hague Conventions, see *The Möwe*, (1915) P. 1; *The Roumanian*, (1915) P. 26. "Port" does not mean the fiscal port, but "a place where ships are in the habit of coming for the purpose of loading or unloading, embarking or disembarking" (*The Möwe, supra*); and may include oil tanks some distance from the ship, into which oil is pumped for storage purposes from the ship (*The Roumanian, supra*).

Capture on the high seas is not lawful if the belligerent warship is within neutral waters, and sends out boats by which the prize is captured (see *The Twee Gebroeders*, 3 C. Rob. 162; *The Anna*, 5 C. Rob. 373).



There is a difference of opinion among nations as to whether it is in accordance with international law that merchant ships should be converted into warships on the high seas. There is, however, no doubt a right by international law to convert merchantmen into ships of war. By the Hague Convention No. 7 of 1907 it is provided as follows:—

ARTICLE 1.—A merchant ship converted into a warship cannot have the rights and duties appertaining to vessels having that status unless it is placed under the direct authority, immediate control, and responsibility of the Power, the flag of which it flies.

ARTICLE 2.—Merchant ships converted into warships must bear the external marks which distinguish the warships of their nationality.

ARTICLE 3.—The commander must be in the service of the State and duly commissioned by the proper authorities. His name must figure on the list of the officers of the fighting fleet.

ARTICLE 4.—The crew must be subject to military discipline.

ARTICLE 5.—Every merchant ship converted into a warship is bound to observe in its operations the laws and customs of war.

ARTICLE 6.—A belligerent who converts a merchant ship into a warship must, as soon as possible, announce such conversion in the lists of its warships.

It cannot be said, however, that a failure to comply with the provisions of this Convention would amount to a violation of international law in the unsettled

state of international opinion on the subject, at any rate, unless all the belligerents were parties to the Convention. As privateering was abolished by the Declaration of Paris in 1856, it would appear to be a violation of international law that merchantmen after conversion into warships should remain the property of private owners. They should be taken over by the State and added to the war fleet of the State. Ships belonging to the Cunard and White Star lines, which by agreement with the State may be sold to the Government at short notice and at a fixed price, may be converted by the Government under the agreement into warships without a breach of international law (Parl. Paper, 1887, Subvention of Merchant Steamers for State Purposes). These vessels would after conversion lawfully be entitled to attack and capture enemy ships at sea.

It is only the warships of a belligerent which are entitled to capture enemy vessels, except that when the merchantman of a belligerent is attacked by an enemy merchantman, she may then attack and capture the enemy ship. Moreover, enemy ships may be attacked by the coast batteries of a belligerent.

The territorial waters of a State include the waters of the sea within a marine league of the coast, and where there are bays within a marine league outwards from an imaginary line drawn across the entrance of the bays.

There is no recognized rule of international law which entitles an enemy vessel to exemption from capture if she is shipwrecked or has been driven into a belligerent port by stress of weather or lack of provisions. Instances have from time to time occurred in which belligerents have refrained under such circum-

stances from capturing the enemy vessel, but capture under such circumstances is not a breach of international law, and if an enemy ship under such circumstances is captured in a port or roadstead she becomes a droit of Admiralty (see *The Maria Françoise*, 6 C. Rob. 282).

The seizure and capture of an enemy ship by a belligerent's warship does not *ipso facto* render the confiscation of the ship or of the enemy cargo therein lawful, and the captured ship cannot legally be disposed of until she has been condemned as a lawful prize by a Prize Court (see *Andersen v. Marten*, (1908) A. C. 334).

In addition to private enemy ships to which the Hague Convention No. 6 of 1907 is applicable, the following enemy ships are either by international convention or in accordance with long established international usage exempt from capture:—

(1.) *Hospital ships*, subject to complying with certain conditions (see the Hague Convention No. 10 of 1907; *The Ophelia*, (1915) P. 129.

(2.) *Vessels employed in religious, scientific or philanthropic missions* (see the Hague Convention No. 11 of 1907, Art. 4).

(3.) *Cartel ships*, that is, vessels employed or about to be employed in services connected with the exchange of prisoners of war (see *The Carolina*, 1 C. Rob. 304; *The Daifjie*, 3 C. Rob. 139; *La Gloire*, 5 C. Rob. 193).

(4.) *Small vessels engaged exclusively in coast fishery*, or in the petty transactions of *local trade*, provided they take no part whatever in hostilities (see Hague Convention No. 11 of 1907, Art. 3; *The Young Jacob and Johanna*, 1 C. Rob. 20; *The Liesbet Van der Toll*,

5 C. Rob. 283; *The Berlin*, (1914) P. 265; *The Paquete Habana*, 175 U. S. 677; 189 U. S. 453).

(5.) *Enemy ships protected by licenses*.—A belligerent may, if it chooses, grant licenses to its own subjects, or to neutrals or to enemies to trade. If the belligerent elects so to do, enemy ships trading strictly in accordance with the terms of the license, and not otherwise, are exempt from capture (*The Felicity*, 2 Dod. 381; 2 Eng. P. C. 233).

What are *enemy ships*?

Although the provisions of the Declaration of London, 1909, have not received the sanction of, or been ratified by, the British Parliament, the Prize Court, which administers the law of nations, has regard to the provisions of the Declaration of London as being evidence of what the law of nations is in respect of matters therein provided for. By the Declaration of London Order in Council No. 2, 1914 (which repealed the Order in Council of 20th August, 1914, No. 1260), and which is set out, *infra*, p. 65, the Declaration, subject to certain exceptions and modifications, is adopted by His Majesty's Government. Grave departures in many instances have been made therein from what have up till now been regarded by Great Britain as the rules and usages of international law, and it has not yet been decided whether the Prize Court will feel itself to be bound to apply the Declaration if, and in so far as, the Declaration is held in any particular not to be in accordance with the British view of the principles of the law of nations (see *The Zamora*, 31 T. L. R. 513):

(1.) All vessels under the flag and pass or license of the enemy State are deemed to be enemy ships (*The Vigilantia*, 1 C. Rob. 1; *The Vrouw Elizabeth*, 5 C. Rob. 2; *The Anna Catherina*, 5 C. Rob. 161; *The Primus*,

Spinks, 48; *The Julia*, 8 Cranch, 181; *The Industrie*, Spinks, 54; *The Marie Glaeser*, (1914) P. at p. 238; *The Tommi*, (1914) P. 251).

The flag in Art. 57 of the Declaration of London means, of course, "the flag under which, whether she is flying it or not (*i.e.*, at the time of seizure), the vessel is entitled to sail according to the municipal laws which govern that right" (*The Tommi*, *supra*, at p. 257). The provisions of the Declaration of London respecting transfer to another flag must be regarded however, and these provisions, which it is submitted effected a change in the law of nations, may modify in particular cases the general rule above stated (see Declaration of London, Arts. 55, 56, and 57 in Appendix, p. 211, and *The Tommi*, *supra*).

The old rules relating to transfers are expounded in the above cases, and in *The Vrow Margaretha*, 1 C. Rob. 336; *The Jan Frederick*, 5 C. Rob. 127; *The Baltica*, 11 Moo. P. C. 141; *The Bernon*, 1 C. Rob. 101; *The Welvaart*, 1 C. Rob. 122; see also Admiralty Manual of Prize Law, 1888 (Holland), *The Tommi*, *supra*; Pratt's Story, pp. 64-65; *The Southfield*, *The Times*, 31 T. L. R. 577.

(2.) All vessels owned in whole or in part by an enemy, *i.e.*, a person clothed with enemy character (see Chapter I. and cases last cited *supra*), are also deemed to be enemy vessels. But if a ship sails under the enemy flag, the character which her owner or any of her part owners may have as individuals is immaterial (per Evans, P., in *The Marie Glaeser*, (1914) P. at p. 239).

It is well to bear in mind that the French Prize Court may not recognize a transfer by an enemy of a ship *in transitu* under any conditions.

A neutral ship is liable to capture and condemnation

if she breaks or attempts to break a blockade (*The Imina*, 3 Rob. 167), or is contraband of war, or, under certain circumstances, if she is carrying either absolute or conditional contraband (*The Charlotte*, 5 Rob. 305; *The Imina*, 3 Rob. 167; see the Declaration of London, Chap. II., Arts. 35—44); or is engaged in unneutral service (*e.g.*, carrying enemy despatches or intelligence or troops, or civil officers at the time connected with hostilities, see Declaration of London, Chap. III., Arts. 45—54); or is engaged in enemy service, or in any privileged trade of a belligerent which is closed in time of peace to neutral vessels, or is sailing under the convoy of a neutral or enemy warship (see *The Maria*, 1 Rob. 340; and Declaration of London, Chap. VII., Arts. 61—62; and see also pp. 65 to 71, *infra*).

A *British* ship is also liable to seizure, if she is trading with the enemy, or is carrying contraband between foreign ports (see Proclamation, 5th August, 1914, No. 1251); or is carrying despatches, intelligence, or troops of the enemy without a license from the King or from an allied State.

Neutral merchantmen, but not warships, are liable to be visited and searched by belligerent warships (*The Maria*, 1 Rob. 340). Resistance to search involves in all cases the condemnation of the ship, and of the goods therein of the owner or master of the vessel (*The Maria*, *supra*; also the Declaration of London, Chaps. VIII. and IX., Arts. 63—64).

Compensation may be given in certain circumstances where there was no fair ground of suspicion (*The Ostsee*, Spinks, 174; *The Peacock*, 4 C. Rob. 185).

The provisions of Art. 6 of the Order in Council, 1915, No. 206 (see Appendix, p. 198), would appear

to render *any merchant vessel*, whether she possessed enemy character or not, liable to condemnation in the circumstances therein provided for. As to when vessels are liable to capture as carriers of contraband, see Chapter V., *infra*.

By 5 Geo. V. c. 21, s. 1—

“A transfer made after the twelfth day of February, 1915, of a British ship registered in the United Kingdom, or a share therein, to a person not qualified to own a British ship, shall not have any effect unless the transfer is approved by the Board of Trade on behalf of His Majesty, and any person who makes, or purports to make, such a transfer after the commencement of this Act without that approval shall be, in respect of each offence, guilty of a misdemeanour.”

By sect. 2 this Act is applied to British ships registered at foreign ports of registry, and in all British possessions, except such as are thereby expressly excluded.

Enemy and neutral prizes may also lawfully be destroyed at sea; in the case of an enemy prize, certainly, if not to destroy her would interfere with the reasonable naval operations of the captor (*The Felicity*, 2 Dod. 381; and *The Leucade*, Spinks, 217); and, in the case of a neutral, if bringing her into port would involve danger to the safety of the warship, or to the success of the operations on which she was engaged, subject to compensation if the capture is subsequently held to be invalid (see Declaration of London, Chap. IV., Arts. 49—52).

(b) *Goods.*

• Enemy goods at sea may be (1) carried in enemy ships, or (2) carried in neutral ships. Some mention may also be made of (3) neutral goods carried in enemy ships.

(1.) *Enemy goods in enemy ships.*

Such goods are always liable to seizure and condemnation by a belligerent warship except in the following cases (see *The Miramichi*, (1915) P. 71):—

(a) *The postal correspondence of the enemy* (see Hague Convention No. 11 of 1907, Arts. 1, 2). This exemption has not yet been definitely extended to mail bags carried on mail steamers.

(b) *Hospital appliances and stores* in use in her sick bay. Such articles may be seized but must be applied to their original purpose, or other suitable articles must be substituted therefor (see Hague Convention No. 10 of 1907, Art. 7; see *The Ophelia*, (1915) P. 129).\*

• (c) *Enemy cargo on enemy merchantmen*, to which Arts. 1, 2 and 3 of the Hague Convention No. 6 is applicable. But see *supra*, p. 40, and cases there cited.

(d) *Certain books and works of art in course of conveyance to some public institution in the enemy's territory* (*The Marquis de Somarveles*, Stewart, p. 482).

(2) *Enemy goods in neutral ships.*

This is not the place to discuss what must be held by reasonable people to be purely an academic question, namely, whether it is prejudicial to the interests



of Great Britain that she should have become a signatory to the Declaration of Paris in 1856.

The Declaration of Paris was as follows:—

1. Privateering is and remains abolished.
2. The neutral flag covers enemy's merchandise, with the exception of contraband of war.
3. Neutral merchandise, with the exception of contraband of war, is not capturable under the enemy's flag.
4. Blockades, in order to be obligatory, must be effective—that is to say, maintained by a force sufficient to really prevent access to the coast of the enemy.

Article 2 of the Declaration of Paris is, at any rate so far as Great Britain, Austria, Russia, Prussia, and France are concerned, decisive in favour of the principle of “free ships, free goods.”

For nearly sixty years, Art. 2 of the Declaration of Paris has formed one of the main rules of international law. If Great Britain were to repudiate it, now, it would result in a gross breach of the law and usage of international law, and her action would be received with bitter resentment by the family of Nations (*The Marie Glaeser*, (1914) P. at p. 233).

The enemy or neutral character of goods at sea follows the enemy or neutral character of the person to whom they belong ascertained in accordance with the principles set out in Chapter I.

The provisions of the Order in Council 11th March, 1915, No. 206, make grave inroads upon Art. 2 of the Declaration of Paris, and so long as the Order in Council remains in operation, Art. 2 of the Declara-

tion of Paris will be substantially abrogated so far as Germany is concerned (see Appendix, p. 198).

It must be remembered that the neutral flag does not cover goods which are absolute or conditional contraband (see Chapter 62, *infra*), nor the cargo of a vessel found guilty of breach of blockade, and subsequently condemned, except as provided by Art. 21 of the Declaration of London, 1909. The law on this subject prior to 1909 was expounded in *The Vrow Judith*, 1 C. Rob. 150; *Baltuzzi v. Ryder*, 12 Moo. P. C. at p. 186.

Cargo, if owned by the owner of the vessel, on a neutral ship condemned on the ground of being used in unneutral service is also liable to condemnation (see Declaration of London, Arts. 45, 46; see also *The Friendship*, 6 C. Rob. 420; *The Orozembo*, 6 C. Rob. 430).

The test for determining whether goods (laden on a British ship during peace and without any anticipation of imminent war, under a contract for sale to a person who becomes an enemy before the seizure of the goods) are enemy goods or not, is whether the property in the goods at the time of seizure was in an enemy (see *The Cousine Marianne*, Edw. 346; *The Ida*, Spinks, 26; *The Abo*, Spinks, 42; *The Vrow Margaretha*, 1 C. Rob. 336; *The Ariel*, 11 Moo. P. C. 119; *The Miramichi*, (1915) P. 71; but see *The Roland* (part cargo *ex*), as to goods on enemy ships, 31 T. L. R. 357; and *The Southfield*, *The Times*, 31 T. L. R. 577).

The Prize Court will pay no heed to the claims put forward on behalf of holders of liens, charges, pledges or mortgages of enemy goods captured as prizes (*The Tobago*, 5 C. Rob. 218; *The Marianna*, 6 C. Rob. 24; *The Ajna*, Spinks, 8; *The Ida*, Spinks, 26; *The Marie*

*Glaeser*, (1914) P. 218; *The Odessa*, (1915) P. 52, affirmed by J. C. 28th July, 1915; *The Linaria*, 31 T. L. R. 396; *The Hampton*, 5 Wall. 372; *The Carlos F. Roses*, 177 U. S. 655).

Enemy property on board a British ship is not exempt from capture, whether the ship is in a British port or not at the time of seizure (*The Aldworth* (part cargo *ex*), 31 T. L. R. 36; *The Miramichi*, *supra*).

### (3) *Neutral goods in enemy's ships.*

Such goods are generally exempt from capture under Art. 3 of the Declaration of Paris, 1856.

At the same time, the neutral owner who entrusts his goods in a belligerent ship runs all the risks which are incident to the operations of war, and if the enemy ship is captured, or destroyed, the owner of the goods will not be entitled to any compensation (see also Order in Council, 1915, No. 206, in Appendix, p. 198, and *The Schlesien*, 31 T. L. R. 89). Goods on an enemy ship consigned to an enemy port are *prima facie* enemy property (*The Roland*, 31 T. L. R. 357).

### *Can an alien enemy appear in the Prize Court?*

The position of an alien enemy who appears to resist a claim that his ship or goods should be confiscated, detained or otherwise dealt with by the Prize Court, is akin to that of a plaintiff. He is not in a position analogous to that of a defendant.

Whether such a person is entitled to appear and to present his case depends not upon international law, but upon the rules of practice laid down by the President of the Prize Court. Formerly, unless a subject of an enemy State brought himself under par-

ticular circumstances that discharged him *pro hac vice* from the character of an enemy, *e.g.*, a flag of truce, a cartel, a pass or some other license from the Crown, he could not appear. He did not possess a *persona standi in judicio*. An alien enemy may now appear and be heard whenever, but only when, he states by affidavit that "he conceives that he is entitled to any protection, privilege or relief under any of the Hague Conventions of 1907" (see *The Chile*, (1914) P. 212; *The Möwe*, (1915) P. p. 1; *The Fœnix*, 5 Eng. P. C. 238; *The Pedro*, 175 U. S. 354; *The Guido*, 175 U. S. 382; *The Ventura*, *ibid.* 384; *The Puquete Habana*, 175 U. S. 677).

When property, whether it consists of ships or goods, has been captured, the onus of proving that it is not liable to condemnation or detention is on the person claiming its release.

"Prize Courts have always acted upon the principle that the capture is lawful until claimants prove the contrary. All that it is necessary for captors in Prize proceedings to allege is that the capture was made, and that the property captured is claimed as prize; thereupon claimants must establish their claim to release" (per Evans, P., *The Zamora*, 31 T. L. R. at p. 516).

## CHAPTER V.

## CONTRABAND OF WAR.

THERE is no rule of international law which prohibits trading by or with the subjects of belligerents. It recognizes, of course, that a State may impose any limitations which it thinks fit upon the trading rights or capacity of its own subjects, whether the trade be with belligerent traders or otherwise. There is, therefore, no rule of international law which imposes upon a neutral State the obligation to prevent its subjects trading with belligerents even in munitions of war (see *Bell v. Reid*, 1 M. & S. 726). At the same time, as it is generally recognized that the subject of a neutral State should not unreasonably, by trading with the enemy, tend to increase the resources of the enemy State, for the purposes of war (see *In re Grazebrook*, 4 De G. J. & S. 655), by the law of nations a belligerent may capture, if he can, articles in course of transit to an enemy which may directly or indirectly be of use to the enemy in carrying on the war.

Goods in course of transit to an enemy's territory which are designed by their nature exclusively for purposes of war, or which, while fit for purposes either of peace or war, may be used by the enemy for purposes of war, and which in either case are destined for the use of the enemy in war, are called contraband of war, and may be seized and confiscated by a belligerent.

The first class of goods, those fit exclusively for purposes of war, are called absolute contraband; the second class, those which may be fit for purposes either of peace or war, are called conditional contraband.

What goods are to be included in either class is a matter for declaration by the belligerents themselves.

Apart from the Declaration of London, 1909, the law appears to be that goods in course of transit to an enemy port or places occupied by his forces, which are absolute contraband, are liable to capture, as an irresistible inference can be drawn in such circumstances, that they are destined for the use of the enemy in war. The same result follows if the goods are in course of transit to the naval forces of the enemy at sea. Whether they are in course of transit to the enemy is a question of fact in each case.

Goods conditionally contraband also, if, in course of transit to an enemy port or places occupied by the enemy's forces, or the enemy's fleet at sea, they are *in fact* destined for the use of the enemy in war (*Jonge Margaretha*, 1 Rob. 188; *The Commercen*, 1 Wheat. 382; *The Peterhoff*, 5 Wall. 28).

The destination of the cargo is usually determined by the destination of the ship.

The destination of the ship is hostile, if any port to which, *in the course of the voyage*, she is bound is an enemy port, or if she is, during any part of her voyage, to go to or meet the enemy's fleet at sea, or, if her destination is expressed to be dependent upon "contingencies," if she may on the happening of any of the contingencies be intended to touch at a hostile port, unless the master proves that the contingent hostile destination has been definitely abandoned (*The Imina*, 3 C. Rob. 167).

In 1800 it was held by the British Prize Court that, if a ship carrying contraband is bound first for a neutral port, and afterwards for a hostile port, she is not liable to capture except during that part of the voyage in which she is bound for the hostile port (*The Imina*, 3 C. Rob. 167). It is submitted that at the present time this view of the law is not sound, and that, in accordance with what is called the doctrine of "continuous voyage," the liability to capture according to international law would accrue from the moment the vessel quitted port on the voyage in the course of which she would at some time be bound for a hostile destination (see the American decisions in *The Peterhoff*, *supra*; *The Bermuda*, 3 Wallace, 514; and *The Springbok*, 5 Wallace, 1; see, however, *Hobbs v. Henning*, 17 C. B. (N. S.) 791; 34 L. J. C. P. 117).

Further, even if the port to which the vessel is bound is a neutral port, it does not necessarily follow that the destination of the goods would be held to be neutral, for, if it is proved that the neutral port affords access to territory of the enemy, the transit being completed overland or by transshipment, and that it was intended that the goods should in this way be conveyed to the enemy for use in war, the destination of the goods, it is submitted, should be held to be hostile, and liable to capture, even during the voyage by sea to the neutral port (see cases *supra*). This doctrine is sometimes called the doctrine of "continuous transport." It will be remembered that the provisions of the Declaration of Paris, 1856, Arts. 2 and 3, did not purport to exempt the goods to which they referred from the liability to which they would be exposed if they were held to be contraband of war.

On the 20th August, 1914, by Order in Council, the Declaration of London, subject to certain conditions and modifications, was adopted and put in force.

On the 29th October, 1914, by the Declaration of London Order in Council No. 2, 1914 (No. 1614), the last mentioned Order in Council was repealed, and it was provided :

Art. 1. During the present hostilities the provisions of the Convention known as the Declaration of London shall, subject to the exclusion of the lists of contraband and non-contraband, and to the modifications hereinafter set out, be adopted and put in force by His Majesty's Government.

The modifications are as follows:—

- (i) A neutral vessel, with papers indicating a neutral destination, which, notwithstanding the destination shown on the papers, proceeds to an enemy port, shall be liable to capture and condemnation if she is encountered before the end of her next voyage.
- (ii) The destination referred to in Article 33 of the said Declaration shall (in addition to the presumptions laid down in Article 34) be presumed to exist if the goods are consigned to or for an agent of the enemy State.
- (iii) Notwithstanding the provisions of Article 35 of the said Declaration, conditional contraband shall be liable to capture on board a vessel bound for a neutral port if the goods are consigned "to order," or if the ship's papers do not show who is the consignee of the goods or if they show a consignee of the goods in territory belonging to or occupied by the enemy.



(iv) In the cases covered by the preceding paragraph (iii) it shall lie upon the owners of the goods to prove that their destination was innocent.

In 1782 it was made illegal to *ransom* British shipping, and all such contracts are contrary to public policy, and void (22 Geo. III. c. 25).

Art. 2. Where it is shown to the satisfaction of one of His Majesty's Principal Secretaries of State that the enemy Government is drawing supplies for its armed forces from or through a neutral country, he may direct that in respect of ships bound for a port in that country Article 35 of the said Declaration shall not apply. Such direction shall be notified in the "London Gazette" and shall operate until the same is withdrawn. So long as such direction is in force, a vessel which is carrying conditional contraband to a port in that country shall not be immune from capture.

On the question of "destination," it is well to bear in mind the following passage from the Note from Sir E. Grey to the Hon. W. Page, the American Ambassador, dated 10th February, 1915:—

"The reason for drawing a distinction between food-stuffs intended for the civil population and those for the armed forces or enemy Government Departments disappears when the distinction between the civil population and the armed forces itself disappears. In any country in which there exists such a tremendous organization for war as now obtains in Germany there is no clear division between those whom the Government is responsible for feeding and those whom it is not. Experience shows that the power to requisition will be used to the fullest extent in order to make sure that the wants of the military are supplied, and

however much goods may be imported for civil use it is by the military that they will be consumed if military exigencies require it."

Lists of articles to be treated as contraband were promulgated by Royal Proclamation on 4th August, 21st September, 29th October, 23rd December, 1914, and 11th March, 1915.

The following articles are at present declared to be contraband, see Proclamations of 23rd December, 1914, 11th March, 1915, and 20th August, 1915:—

*Absolute Contraband.*

1. Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.

2. Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.

3. Powder and explosives specially prepared for use in war.

4. Ingredients of explosives, viz., nitric acid, sulphuric acid, glycerine, acetone, calcium acetate and all other metallic acetates, sulphur, potassium nitrate, the fractions of the distillation products of coal tar between benzol and cresol inclusive, aniline, methyl-aniline, dimethylaniline, ammonium perchlorate, sodium perchlorate, sodium chlorate, barium chlorate, ammonium nitrate, cyanamide, potassium chlorate, calcium nitrate, mercury.

5. Resinous products, camphor, and turpentine (oil and spirit).

6. Gun mountings, limber boxes, limbers, military wagons, field forges, and their distinctive component parts.

7. Range-finders and their distinctive component parts.

8. Clothing and equipment of a distinctively military character.

9. Saddle, draught, and pack animals suitable for use in war.

10. All kinds of harness of a distinctively military character.

11. Articles of camp equipment and their distinctive component parts.

12. Armour plates.

13. Ferro alloys, including ferro-tungsten, ferromolybdenum, ferro-manganese, ferro-vanadium, ferro-chrome.

14. The following metals:—Tungsten, molybdenum, vanadium, nickel, selenium, cobalt, hæmatite pig-iron, manganese.

15. The following ores:—Wolframite, scheelite, molybdenite, manganese ore, nickel ore, chrome ore, hæmatite iron ore, zinc ore, lead ore, bauxite.

16. Aluminium, alumina, and salts of aluminium.

17. Antimony, together with the sulphides and oxides of antimony.

18. Copper, unwrought and part wrought, and copper wire.

19. Lead, pig, sheet, or pipe.

20. Barbed wire, and implements for fixing and cutting the same.

21. Warships, including boats and their distinctive component parts of such a nature that they can only be used on a vessel of war.

22. Submarine sound signalling apparatus.

23. Aeroplanes, airships, balloons, and aircraft of all kinds, and their component parts, together with accessories and articles recognisable as intended for use in connection with balloons and aircraft.

24. Motor vehicles of all kinds and their component parts.

25. Tyres for motor vehicles and for cycles, together with articles or materials especially adapted for use in the manufacture or repair of tyres.

26. Rubber (including raw, waste, and reclaimed rubber) and goods made wholly of rubber.

27. Iron pyrites.

28. Mineral oils and motor spirit, except lubricating oils.

29. Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land and sea.

30. Raw wool, wool tops and noils and woollen and worsted yarns.

31. Tin, chloride of tin, tin ore.

32. Castor oil.

33. Paraffin wax.

34. Copper iodide.

35. Lubricants.

\*36. Hides of cattle, buffaloes, and horses; skins of calves, pigs, sheep, goats, and deer; leather, undressed or dressed, suitable for saddlery, harness, military boots, or military clothing.

37. Ammonia and its salts whether simple or compound; ammonia liquor; urea, aniline, and their compounds.

38. Raw cotton; cotton linters; cotton waste; cotton yarns. •

### *Conditional\* Contraband.*

1. Foodstuffs.

2. Forage and feeding stuffs for animals.

3. Clothing, fabrics for clothing, and boots and shoes suitable for use in war.

4. Gold and silver in coin or bullion; paper money.

5. Vehicles of all kinds, other than motor vehicles, available for use in war, and their component parts.

6. Vessels, craft, and boats of all kinds; floating docks, parts of docks, and their component parts.

7. Railway materials, both fixed and rolling stock, and materials for telegraphs, wireless telegraphs, and telephones.

8. Fuel, other than mineral oils. Lubricants.

9. Powder and explosives not specially prepared for use in war.

10. Horseshoes and sholing materials.

11. Harness and saddlery.

12. Hides of all kinds, dry or wet; pigskins, raw or dressed; leather, undressed or dressed, suitable for saddlery, harness, or military boots.

13. Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

14. Tanning substances of all kinds (including extracts for use in tanning).

“Foodstuffs” and “feeding stuffs for animals” in this list of conditional contraband includes oleaginous seeds, nuts and kernels; animal and vegetable oils and fats (other than linseed oil) suitable for use in the manufacture of margarine; and cakes and meals made from oleaginous seeds, nuts and kernels.

A ship may itself be contraband, if it comes within the rules for determining that property is contraband (see *The Brutus*, 5 C. Rob. 331, n.).

Arts. 22—24 of the Déclaration of London (see Appendix, p. 201) purport to set forth a code of international law in relation to contraband. The

Prize Court, which administers the law of nations (see *The Marie Glaeser*, (1914) P. at p. 233), will have regard to the Declaration of London as being weighty evidence of what the principles of international law are, and, even if the Prize Court is not bound to do so, it will in all probability follow the rules set forth in the Declaration of London as modified or varied by the Orders in Council relating thereto. The Prize Court will also, it is presumed, act in accordance with the Order in Council of 11th March, 1915, No. 206 (see Appendix, p. 198; *The Zamora*, 31 T. L. R. 513). For proof of destination in the case of absolute contraband see Arts. 30, 31, 32 of the Declaration of London. For proof of destination in the case of conditional contraband, see Arts. 33 and 34 of the Declaration of London, and Art. 1 (ii.) of the Order in Council of 11th March, 1915. Arts. 35 and 36 of the Declaration of London must be read subject to Art. 1 (ii.), (iii.), (iv.) and Art. 2 of the Order in Council of 11th March, 1915.

By Art. 40 a vessel carrying contraband may be condemned if the contraband forms more than half the cargo (see further Arts. 41, 43, 44).

A neutral vessel, with papers indicating a neutral destination, which proceeds to an enemy port is liable to condemnation, if she is encountered before the end of her next voyage (Art. 1 (i.) of the Declaration of London Order in Council, No. 2).

Under Art. 6 of the Order in Council of 11th March, 1915, any merchant vessel with "an ostensible destination" to a neutral port which proceeds to an enemy port is liable to condemnation, if captured on any subsequent voyage.

## CHAPTER VI.

## THE RIGHT OF ALIEN ENEMIES TO CONTRACT OR TRADE.

THIS subject may be considered in two parts—

- (a) The right of alien enemies who are in this country to contract with other persons in this country.
- (b) The right of alien enemies in an enemy country to contract with persons in this country.

(a) All intercourse with alien enemies is prohibited at common law after the commencement of war, except under a license from the King. Sir William Scott laid down the principle to be applied to such transactions in time of war as follows:—

“In my opinion there exists such a general rule in the maritime jurisprudence of this country, by which all subjects’ trading with the public enemy, unless with the permission of the Sovereign, is interdicted. . . . By the law and Constitution of this country the Sovereign alone has the power of declaring war and peace. He alone, therefore, who has this power of entirely removing the state of war, has the power of removing it in part, by permitting, where he sees proper, that commercial intercourse which is a partial suspension of the war. There may be occasions on which such an intercourse may be highly expedient. But it is not for individuals to determine on the expediency of such occasions on their own notions of commerce, and of

commerce merely, and possibly on grounds of private advantage not very reconcilable with the general interests of the State. It is for the State alone, on more enlarged views of policy and on consideration of all circumstances that may be connected with such an intercourse, to determine when it shall be permitted and under what regulations. In my opinion no principle ought to be held more sacred than that this intercourse cannot subsist on any other footing than that of the direct permission of the State. Who can be insensible to the consequences that might follow if every person in time of war had a right to carry on a commercial intercourse with the enemy? . . . .

“ . . . . Another principle of law of a less politic nature, but equally general in its reception and direct in its application, forbids this sort of communication as fundamentally inconsistent with the relation at that time existing between the two countries; and that is, the total inability to sustain any contract by an appeal to the tribunals of the one country on the part of the subjects of the other. In the law of almost every country, the character of alien enemy carries with it a disability to sue, or to sustain in the language of civilians a *persona standi in judicio*. The peculiar law of our own country applies this principle with great rigour. . . . No man can sue who is a subject of the enemy, unless under particular circumstances that *pro hac vice* discharge him from the character of an enemy; such as his coming under a flag of truce, a cartel, a pass, or some other act of public authority that puts him in the King's peace *pro hac vice*: but otherwise he is totally *ex lege*. . . . A State in which contracts cannot be enforced cannot be a State of legal commerce. If the parties who are to contract have no right to



compel the performance of the contract, nor even to appear in a court of justice for that purpose, can there be a stronger proof that the law imposes a legal inability to contract? To such transactions it gives no sanction, they have no legal existence; and the whole of such commerce is attempted without its protection and against its authority." (*The Hoop*, 1 C. Rob. 196.)

The intercourse with alien enemies which is forbidden is not only "commercial" intercourse, but any communications which might result in advantage to the enemy or in detriment to this country. Sir W. Scott went so far as to lay down that "all communication between the subjects of the belligerent countries must be suspended, and no intercourse can legally be carried on between the subjects of the hostile States, but by the special license of their respective Governments" (*The Cosmopolite*, 4 C. Rob. 8; *The Panuriellos*, (part cargo *ex*), 31 T. L. R. 326; *Robson v. The Premier Oil and Pipe Line Co., Ltd.*, (1915) 2 Ch. 124; *The Rapid*, 8 Cranch, 155; *The Julia*, *ibid.* 181).

Licenses from His Majesty to trade may be either *general*, that is, licenses to all British, or neutral, or enemy subjects to trade in particular articles or at particular places; *special*, that is, to individuals to trade in a particular manner; *express*, or *implied* (*Feize v. Thompson*, 1 Taunt. 121; *Vandyck v. Whitmore*, 1 East, 475). For examples of licenses granted during the war, reference may be made to the licenses granted to German and Austrian Banks on 19th September, 1914, and to Turkish Banks on 30th November, 1914, and 8th January, 1915.

Alien enemies resident in this country during the war *per licentiam et sub protectione regis* are legally in the same position, in respect of the right to contract

and to carry on business, as other foreigners resident here *per licentiam regis*.

Alien enemies must, however, comply with the regulations as to registration, &c. which are imposed as a condition upon which the permission to remain is made dependent. Upon this subject reference is made to Chapter I., *supra*.

There are certain restrictions, however, upon the right of alien enemies resident here *per licentiam* to contract or carry on business during the war. For example, under Art. 24 of the Aliens Restriction (Consolidation) Order, restrictions are placed upon alien enemies with respect to banking, and under 5 Geo. V. c. 21, transfers of British ships to unqualified persons without permission are invalid, and amount to a misdemeanour. Neither aliens, nor British subjects, nor the subjects of allied or neutral States, may enter into or execute contracts which are rendered illegal or void by reason of war, or which enure for the benefit of an enemy. For example, contracts made in this country insuring the goods or vessels of enemies against capture by British warships are illegal and void (see *Kellner v. Le Mesurier*, 4 East, 396; *Furtado v. Rodgers*, 3 B. & P. 191; *Janson's Case*, (1902) A. C. 484). The insurance of British, neutral, or allied ships or cargoes against capture by British warships would, it is submitted, be permissible. The fact that an alien enemy has contracted in this country through an English agent does not validate or in any way affect a contract otherwise invalid and unenforceable (see *Brandon v. Nesbitt*, 6 D. & F. 23; *Bristow v. Towers*, 6 D. & F. 35; *McConnell v. Hector*, 3 B. & P. 113).

An alien enemy, resident here during war *per*

*licentiam regis*, will be guilty of a misdemeanour, "if he has entered into any transaction or done any act which was, at the time of such transaction or act, prohibited by or under any proclamation issued by His Majesty dealing with trading with the enemy for the time being in force, or which at common law or by statute constitutes an offence of trading with the enemy" (see Trading with the Enemy Act, 1914, s. 1, and Appendix, pp. 153, 167).

A difficult question arises as to the position of alien enemies in this country by permission of the King, who may possess enemy character by reason of a "commercial" domicile, acquired by residence or trading. It would probably be held that the fact of their coming to this country, and remaining here during the war, was almost conclusive evidence that they intended to give up the domicile acquired by mere residence, while so far as they retained a house of business in the enemy country and carried it on during the war, it is conceived that, *quoad* that trade, the alien would be deemed to possess enemy character.

(b) The right of alien enemies in an enemy country to contract with persons in this country.

All commercial intercourse with persons who bear enemy character, as explained in Chapter I., is prohibited at common law, and amounts to a common law misdemeanour (see *The Hoop*, 1 C. Rob. 196; *Janson v. The Driefontein Consolidated Mines, Ltd.*, (1902) A. C. p. 484; *Esposito v. Bowden*, 7 E. & B. 763; *The Panariellos*, 31 T. L. R. 326; and cases cited *supra*, at p. 74).

All transactions and acts in breach of the Statutes or Proclamations relating to trading with the enemy

are illegal, and any person who, *inter alia*, trades, or attempts, offers, proposes, or agrees to trade with the enemy, or aids or abets another to trade with the enemy, is guilty of a misdemeanour under 4 & 5 Geo. V. c. 87, s. 1 (2); and 5 Geo. V. c. 12, s. 10; see Appendix, pp. 154, 167; Trading with the Enemy Proclamation (No. 2), 9th Sept., 1914, Appendix, p. 169; Proclamation amending the same of 8th Oct., 1914, Appendix, p. 173; Proclamation extending the same of 7th Jan., 1915; Trading with the Enemy (Occupied Territory) Proclamation, 16th Feb., 1915; Proclamations of 30th Sept. and 26th Oct., 1914, relating to the importation of sugar; Trading with the Enemy China, Siam, Persia, and Morocco) Proclamation, 1915, 25th June, 1915.)

The Trading with the Enemy Proclamation of 9th Sept., 1914, is the main proclamation dealing with enemy trading, and superseded the ambiguous and unsatisfactory Proclamation of 5th Aug., 1914.

By para. 1 of the Trading with the Enemy (Occupied Territory) Proclamation, 16th Feb. 1915, No. 140, the Proclamations for the time being in force relating to trading with the enemy are applied to territory "in the effective military occupation of an enemy" as they apply to an enemy country, and to territory "in the effective military occupation of Us, or Our Allies, or of a Neutral State" as they apply to "Our territory or that of Our Allies."

Paragraph 2 of the Proclamation of 9th Sept., 1914, must be read accordingly (see *Mitsui v. Mumford*, (1915) 2 K. B. 27).

In para. 5 (1) the words "to or for the benefit of an enemy" must be construed to have a very wide application. Thus, where a partner, resident in this country and a naturalized British subject (the other

partners in the firm possessing enemy character), paid a debt due from the partnership to a neutral, the transaction was held to be within para. 5 (1) as being a payment "for the benefit of an enemy" (*R. v. Kupfer*, (1915) 2 K. B. 321; see also *Schmidt v. Van der Veen*, 31 T. L. R. 214; *Wilson v. Ragosine & Co., Ltd.*, 31 T. L. R. 264).

Where goods were supplied from an enemy country during war as the result of commercial intercourse with an enemy, even although the property in the goods might have passed to a British subject in this country, it was held that the transaction amounted to an "obtaining" of the goods within para. 7 (*R. v. Oppenheimer*, (1915) 2 K. B. 755).

As to the meaning of "transaction" when used in the Proclamation, see *Ingle (W. L.), Limited v. Mannheim Insurance Co.*, (1915) 1 K. B. 227, where Bailhache, J., held that the payment of a loss by a German insurance company was not such a "transaction."

Where an enemy has a *branch* of his business in British, allied or neutral territory, special provisions are applicable. (See para. 6 of Trading with the Enemy Proclamation No. 2, Appendix, p. 172; para. 5 of Trading with the Enemy Proclamation of 8th October, 1914, Appendix, p. 174; para. 1 of Trading with the Enemy Proclamation of 7th January, 1915, Appendix, p. 175; para. 1 of Trading with the Enemy (China, &c.) Proclamation, 25th June, Appendix, p. 178.)

Paragraph 6 of the Proclamation of 9th September does not entitle alien enemies to sue in respect of obligations entered into with a branch of their business situated in this country *before the war*. Paragraph 6 is confined to transactions entered into after

the outbreak of war. (*W. Wolf & Sons v. Carr, Parker & Co., Limited*, 31 T. L. R. 407. See also *Leader, Plunket and Leader v. Direction Der Disconto-Gesellschaft*, 31 T. L. R. 83, and *ibid.* 464; *Ingle (W. L.), Limited v. Mannheim Insurance Co.*, (1915) 1 K. B. 227; *Orenstein and Koppel v. Egyptian Phosphate Co.* (1915), Sess. Cas., 55.)

After the 7th January, 1915, transactions with "branches" of enemy banks, and banking business with branches of enemy persons, firms or companies became illegal (see Trading with the Enemy Proclamation, 7th January, 1915, Appendix, p. 175).

After the 26th July, 1915, the proclamations relating to trading with the enemy are made applicable to persons or bodies of persons of enemy *nationality* resident or carrying on business in China, Siam, Persia, and Morocco, and branches of enemy businesses in such territories are excluded from the benefit of paragraph 6 of the Proclamation of 9th September, 1914 (see Appendix, p. 178).

Special provision is also made in respect of insurance business. Paragraph 5 (6) of the Proclamation of 9th September, 1914, is revoked by paragraph 1 of that of 8th October, 1914; and by paragraph 5 of the latter proclamation, transactions by way of insurance or re-insurance by or with branches of enemy insurance businesses locally situated in British, allied, or neutral territory are deemed to be transactions by or with an enemy (see Appendix, pp. 171, 174). The Proclamation of 8th October is not retrospective (see *Ingle (W. L.), Ltd. v. Mannheim Insurance Co.*, (1915) 1 K. B. 227).

In the Prize Court the subjects of allied States will be regarded as bound to conform to the rules laid down by His Majesty's Government with respect to

intercourse with the enemy (*The Panariellos*, 31 T. L. R. 326).

Any contract, the performance of which would produce, or would be calculated to produce, detriment to the welfare of the State so as to be against public policy is illegal (see *Janson v. Driefontein Consolidated Mines, Ltd.*, (1902) A. C. 484). For example, a policy of insurance against the lawful capture of enemy property during war by a British warship, whenever and wherever it is made, would be illegal and void (*Brandon v. Nesbitt*, 6 D. & E. 23; *Bristow v. Towers*, 6 D. & E. 35; *Janson's Case*, *supra*). Again, "if the contemplation of war leads immediately to the transfer of property, and becomes the foundation of the contract," and the object of the parties is to protect enemy property from British capture during the war, such a transfer is illegal (see *The Jan Frederick*, 5 C. Rob. 127; *The Bædes Lust*, 5 C. Rob. 233; *Janson's Case*, *supra*; *The Southfield*, *The Times*, 15th July, 1915).

A contract in furtherance of trading with the enemy, though not made directly between the subjects of two belligerents, is *ab initio* void, even though executed (*Potts v. Bell*, 8 T. R. 548; *Willison v. Patterson*, 7 Taunt. 439; *Usparicha v. Noble*, 13 East. 332; *Muller v. Gernon*, 3 Taunt. 394). But a contract entered into before the outbreak of hostilities to insure the goods of a person, who afterwards becomes an alien enemy, against capture, is not illegal, if the loss occurs before the commencement of hostilities.

A foreign company, which was the subject of a foreign State, insured gold against the "arrests, restraints, and detainments of all kings, princes, and people" during transit from gold mines in the Transvaal to the United Kingdom. The gold was seized

by the South African Republic during the transit,<sup>6</sup> but before the outbreak of hostilities.

*Held*, that the contract was a valid one (*Janson v. Drieponstein Consolidated Mines, Limited*, (1902) A. C. p. 484).

The general words in such a contract of insurance will be taken not to cover a capture by a British warship, and such a risk would not be covered by the policy (*Kellner v. Le Mesurier*, 4 East, 396; *Brandon v. Curling*, 4 East, 410; *Furtado v. Rodgers*, 3 B. & P. 191; *Janson's Case*, *supra*).

The remedy of the alien enemy is suspended during the war, and after the declaration of peace will revive. In the converse case, where a British subject resident in the country is the assured, an action may be brought on the policy even after the commencement of hostilities (see *Le Bret v. Papillon*, 4 East, 502; *Janson's Case*, *supra*; *Robinson & Co. v. Continental Insurance Co. of Mannheim*, (1915) 1 K. B. 155; *Karberg & Co. v. Blythe, Green, Jourdain & Co.*, (1915) 2 K. B. 379).

Where the execution of a contract, not in itself unlawful, involves commercial or, it is suggested, any intercourse with an enemy, performance of the contract during the war is illegal (see *Esposito v. Bowden*, 7 E. & B. 763; *Duncan, Fox & Co. v. Schrempft and Bonke*, (1915) 1 K. B. 365, in C. A. 31 T. L. R. 490; *R. v. Kupfer*, (1915) 2 K. B. 321; *Karberg & Co. v. Blythe, Green, Jourdain & Co.*, (1915) 2 K. B. 379; *Janson's Case*, *supra*).

Whether contracts entered into before the war with persons who become enemy aliens, and which at the time when hostilities commence are *executory*, are suspended in their operation during the war, or are



dissolved, and the parties discharged from further obligations thereunder, must, it is submitted, depend upon the particular circumstances proved in each case (see *The Zinc Corporation (Ltd.) v. Skipwith*, 31 T. L. R. 106; and in C. A. 107; *Zinc Corporation (Ltd.) v. Aron Hirsch and Sohn*, *The Times*, Sept. 8, 1915).

Subject to the provisions of statutes and proclamations relating thereto, if the contract is one which can reasonably be performed after the termination of war, further performance will be suspended during the war; if not, the contract will be dissolved on the outbreak of war. Such contracts, however, will, as a general rule, be dissolved. "Under such circumstances, in all ordinary cases, the more convenient course for both parties seems to be that both should be at once absolved, so that each, on becoming aware of the fact of a war, *the end of which cannot be foreseen*, making the voyage or the shipment presumably illegal for an indefinite period, may at once be at liberty to engage in another adventure without waiting for the bare possibility of the war coming to an end in sufficient time to allow of the contract being fulfilled, or some other opportunity of lawfully performing the contract perchance arising" (per Willes, J., in *Esposito v. Bowden*, 7 E. & B. at p. 792; see also cases above cited, and *Griswold v. Waddington*, 16 Johnston, 438; *Atkinson v. Ritchie*, 10 East, 530; *Barker v. Hodgson*, 3 M. & S. 267; *Bell v. Reid*, 1 M. & S. 726; *The Teutonia*, L. R. 4 P. C. 171; *Geipel v. Smith*, L. R. 7 Q. B. 404; *The Zinc Corporation (Ltd.) v. Skipwith*, 31 T. L. R. 106, where a contract was decided not to have been dissolved by Sargant, J.; see also *ibid.*, p. 107, where the judgment of Sargant J. was reversed on other grounds than the construction of the contract).

But it is submitted that such executory contracts

are not necessarily and in all cases dissolved. For example, contracts of life insurance, of which an essential condition is the payment of periodical premiums, would be dissolved by the outbreak of war between the countries of which the insurer and the assured respectively are subjects (see *New York Life Insurance Co. v. Statham*, 93 U. S. 24; *Same v. Davis*, 95 U. S. 425). On the other hand, a contract under which an accrued right to an annuity had been acquired by an alien enemy upon payment of a lump sum, or of a completed series of instalments, would not, it is submitted, be dissolved by the outbreak of war, although the right to receive the annuity would be suspended during the continuance of hostilities.

It is submitted, however, that neither the premiums paid prior to the outbreak of war in the first illustration, nor the sums which accrued during the war in respect of the annuity in the second, would be recoverable even after the termination of hostilities (see *supra*, p. 35).

Contracts with alien enemies, in themselves not unlawful, and *executed*, except as to payment, prior to the outbreak of war, are not dissolved, but the remedies of the alien enemies thereunder are suspended during the war (see *Ex parte Boussmaker*, 13 Ves. 71; *Alcinous v. Nigreu*, 4 E. & B. 217; *Flindt v. Waters*, 15 East, 260; *Janson's Case*, (1902) A. C. 484; *Robinson & Co. v. Continental Insurance Co. of Mannheim*, (1915) 1 K. B. 155; *Porter's Case*, (1915) 1 K. B. 857).

It has been held in America that the Statutes of Limitation do not run while causes of action are suspended by reason of the outbreak of war between the States of which the parties are respectively subjects (*Hanger v. Abbott*, 6 Wall. 532). Bramwell, B., sug-

gested that such causes of action might become barred by the operation of the Statutes of Limitation, but there is no judicial decision in this country upon the question, and the matter is not free from doubt (see *De Wahl v. Braune*, 25 L. J. Ex. 343). It would seem, however, unsatisfactory that the period within which a person, recently an enemy of this country, might take legal proceedings against a British subject should conceivably be longer than that within which a British subject, in like circumstances, might bring an action.

The effect of the outbreak of war upon contracts made with alien enemies may be summed up thus:

(a) Contracts made during the war without a license are rendered void.

(b) Contracts made and executed before the commencement of war, if lawful *per se*, are suspended during the war. The rights and remedies thereunder revive after the war is over (subject to the Statute of Limitations).

(c) Contracts made before the war, but wholly or partly executory at the outbreak of hostilities, are void either (1) if illegal *per se*; or (2) if the contract is indivisible, and might fail in its purpose, if performance were to be suspended during the war.

On the other hand, an executory contract, otherwise lawful, will be suspended and not rendered void by the outbreak of war, if its object can reasonably be effected by performance after the war, while, if such a contract be severable, it will be void as to such parts only as cannot reasonably be performed after the war, and its operation will otherwise be suspended.

## CHAPTER VII.

## PARTNERSHIPS AND COMPANIES.

PARTNERSHIPS in which one or more of the partners are alien enemies are automatically dissolved by the outbreak of war (*Griswold v. Waddington*, 16 Johnson, 438; *Hanger v. Abbott*, 6 Wall. 532; *O'Mealey v. Wilson*, 1 Camp. 482; *Esposito v. Bowden*, 7 E. & B. p. 763; see Partnership Act, 1890, s. 34).

One cogent reason why the partnership should be dissolved by the outbreak of war is, that contracts could not be made by a British subject with the firm, if one of its members was an alien enemy, while a sufficient reason why such a firm is dissolved wholly, and as to all its members, rather than the effect of war being that the enemy partner drops out, is that it might well be that, without the enemy partner, a firm could hardly carry on business, and the whole basis upon which the members originally came together might, by the exclusion of the enemy partner, be destroyed.

As to when a receiver, and manager, and a controller of partnerships will be appointed, see *supra*, p. 47. As to when returns have to be made of property held or managed for or on behalf of enemy partners, see 5 Geo. V. c. 12, s. 3 (1) and (2); 5 & 6 Geo. V. c. 79, ss. 1 and 2; as to inspection of the books and documents of partnerships, see 4 & 5 Geo. V. c. 87, s. 2; 5 Geo. V. c. 12, s. 12, *infra*, pp. 154, 168.

The character of a company will not be determined

by ascertaining whether any, or the majority of, or all shareholders therein are enemies or not, but by ascertaining whether or not it was incorporated in enemy territory (see *Janson v. Driefontein (Consolidated) Mines, Ltd.*, (1902) A. C. 484; *Continental Tyre and Rubber Co. (Great Britain), Ltd. v. Daimler Co., Ltd.*, (1915) 1 K. B. 893, and cases cited *infra*). In *Janson's Case* the House of Lords did not come to the conclusion that the respondent company was a subject of the Transvaal Government merely because the company was incorporated in its territory. In that case the company was also resident and carrying on business in the Transvaal. In the *Continental Tyre Case*, however, it was held that the sole fact to be ascertained was the place where the company was incorporated. For some purposes a company is deemed to be resident where the central control and management abides (see, e.g., *De Beers Consolidated Mines, Ltd. v. Howe*, (1906) A. C. 455), but this is immaterial, it seems, in considering whether a company is possessed of enemy character or not. Although a Royal Proclamation can neither make nor declare the law (see per Buckley, J., (1915) 1 K. B., at p. 921), the provisions of the Proclamation relating to Trading with the Enemy must be observed under pain of punishment (see 4 & 5 Geo. V. c. 87, s. 1 (2)), and under s. 1 (3) of this Act "every director, manager, secretary or other officer" of a company committing a breach of such provisions, who knowingly is a party to the illegal transaction, is deemed to be guilty of a criminal offence (see App., p. 154). By paragraph 3 of the Proclamation of 9th September (App. p. 170), "in the case of incorporated bodies, enemy character attaches only to those incorporated in an enemy country."

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Notwithstanding the cogent reasoning and, it is submitted, good sense of the dissenting judgment of Buckley, L.J., in the *Continental Tyre Case*, the judgment of the majority of the Court of Appeal in that case, until reversed or altered by legislation, must be taken as laying down the law upon the matter in question (*The Poona*, 31 T. L. R. 411; see also *The Tommi*, (1914) P. 251; *The Marie Glaeser*, (1914) P. 218; *The Möwe*, (1915) P. 1; *The Roumanian*, (1915) P. 26; *Armorduct Co. v. Defries*, 31 T. L. R. 69). It has not been decided whether a company wholly or in part consisting of alien enemies can own a British ship (see cases last cited, and per Buckley, L.J., in the *Continental Tyre Case*, *supra*; see also Merchant Shipping Act, 1894, s. 1(d)). "Strictly read it would seem that according to the definition in paragraph 3, enemy character would not attach to a British corporation resident (as it may be) or carrying on business (as it may do) in the enemy country when it does attach to a natural person so resident or carrying on business. The reason of the difference is far to seek" (per Buckley, L.J., in the *Continental Case*, *supra*, at p. 921; see also *Society for the Propagation of the Gospel v. Wheeler*, 2 Gall. 105; *Bank of the U. S. v. Deveau*, 5 Cranch, 61; *The Emulous*, 1 Gall. 563).

It has been held that, where a German company and an English company were registered as joint owners of certain letters patent, under the particular circumstances of the case in question, an action brought in the names of the two companies for infringement might be heard during the war, but *quære*. (*Mercedes Daimler Motor Co., Ltd. and Another v. Maudslay Motor Co., Ltd.*, 31 T. L. R. 178; see also *Actien-gesellschaft für Anilin Fabrikation v. Levinstein, Ltd.*, 31

T. L. R. 225, where an appeal by two co-plaintiffs, one of whom was an alien enemy company, was suspended during the war; and *In re Merten's Patents*, (1915) 1 K. B. 857.)

For the purposes of the emergency legislation relating to patents, &c., the term "subject of any State at war with His Majesty" includes "any company the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly for the benefit or on behalf of such subjects" (Patents, Designs, and Trade Marks Temporary Rules (Amendment) Act, 1914 (4 & 5 Geo. V. c. 73, s. 1 (b))). As to the appointment of a controller of companies, see 4 & 5 Geo. V. c. 87, s. 3, *infra*, p. 156; 5 Geo. V. c. 12, s. 11, *infra*, p. 167.

For the payment of dividends, &c. accruing to an enemy to the custodian, see 5 Geo. V. c. 12, ss. 2, 4, 5 and 7, *infra*, p. 159, and 5 & 6 Geo. V. c. 79, s. 1.

For the power to inspect books and documents of a company, see 4 & 5 Geo. V. c. 87, s. 2; 5 Geo. V. c. 12, s. 12, *infra*, p. 168, and 5 & 6 Geo. V. c. 79, s. 2.

For the conditions upon which companies may be incorporated to acquire enemy undertakings, see 5 Geo. V. c. 12, s. 9, *infra*, p. 166.

For information to be supplied to the custodian as to the holdings of enemies in companies, see *ibid.* s. 3 (2), *infra*, p. 161, and 5 & 6 Geo. V. c. 79, s. 2.

For restrictions upon transfers of shares or securities belonging to an enemy, see *ibid.* s. 8, *infra*, p. 165, and 5 & 6 Geo. V. c. 79, s. 3.

So far as the position of the shareholders or debenture-holders of a company are concerned, it is submitted, that if such persons are alien enemies, they do not cease to be shareholders or debenture-holders,

but that their rights are suspended, and revive after the war. (See Lindley on Companies, 5th ed., p. 37, and cases there cited.)

During the war, alien enemies who are directors or shareholders of companies incorporated in "friendly territory," are not entitled to exercise, either personally or by proxy, the right of voting or management which, if they were not enemies, would belong to them (see *Robson v. Premier Oil and Pipe Line Co., Limited*, (1915) 2 Ch. 124, and cases there cited; see also *R. v. London County Council*, (1915) 2 K. B. 466).

The dividends accruing to alien enemies during war, like other property of enemies in British territory, may lawfully be confiscated by the State. It is not settled whether, even if such dividends are not confiscated, alien enemies, after the war has come to an end, would be entitled to recover dividends which have accrued *during the war* (see the principle discussed *supra*, pp. 35, 83, and L. Q. R. (1909), p. 297).

By 5 & 6 Geo. V. c. 79, s. 4—

"No action shall be brought or other proceedings commenced by a company the books and documents of which are liable to inspection under sub-section (2) of section two of the Trading with the Enemy Act, 1914, unless notice in writing has previously been given by the company to the custodian of their intention."





## APPENDIX A.

## RESTRICTIONS UPON ALIENS.

## ALIENS RESTRICTION ACT, 1914.

(4 &amp; 5 GEO. 5, c. 12.)

*An Act to enable His Majesty in time of war or imminent national danger or great emergency by Order in Council to impose Restrictions on Aliens and make such provisions as appear necessary or expedient for carrying such restrictions into effect.* [5th August, 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:--

1. *Powers with respect to aliens in case of national emergency.*—(1) His Majesty may at any time when a state of war exists between His Majesty and any foreign power, or when it appears that an occasion of imminent national danger or great emergency has arisen, by Order in Council impose restrictions on aliens, and provision may be made by the Order—

(a) for prohibiting aliens from landing in the United Kingdom, either generally or at certain places, and for imposing restrictions or conditions on aliens landing or arriving at any port in the United Kingdom; and

(b) for prohibiting aliens from embarking in the United Kingdom, either generally or at certain places, and for imposing restrictions and conditions on aliens embarking or about to embark in the United Kingdom; and

- (c) for the deportation of aliens from the United Kingdom; and
- (d) for requiring aliens to reside and remain within certain places or districts; and
- (e) for prohibiting aliens from residing or remaining in any areas specified in the Order; and
- (f) for requiring aliens residing in the United Kingdom to comply with such provisions as to registration, change of abode, travelling, or otherwise as may be made by the Order; and
- (g) for the appointment of officers to carry the Order into effect, and for conferring on such officers and on the Secretary of State such powers as may be necessary or expedient for the purposes of the Order; and
- (h) for imposing penalties on persons who aid or abet any contravention of the Order, and for imposing such obligations and restrictions on masters of ships or any other persons specified in the Order as appear necessary or expedient for giving full effect to the Order; and
- (i) for conferring upon such persons as may be specified in the Order such powers with respect to arrest, detention, search of premises or persons, and otherwise, as may be specified in the Order, and for any other ancillary matters for which it appears expedient to provide with a view to giving full effect to the Order; and
- (k) for any other matters which appear necessary or expedient with a view to the safety of the realm.

(2) If any person acts in contravention of or fails to comply with any provisions of any such Order, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months, and the court before which he is convicted may, either in addition to or in lieu of any such punishment, require that person to enter into recognizances with or without sureties to comply

with the provisions of the Order in Council or such provisions thereof as the court may direct.

If any person fails to comply with an order of the court requiring him to enter into recognizances the court or any court of summary jurisdiction sitting for the same place may order him to be imprisoned with or without hard labour for any term not exceeding six months.

(3) Any provision of any Order in Council made under this section with respect to aliens may relate either to aliens in general or to any class or description of aliens.

(4) If any question arises on any proceedings under any such Order, or with reference to anything done or proposed to be done under any such Order, whether any person is an alien or not, or is an alien of a particular class or not, the onus of proving that that person is not an alien, or, as the case may be, is not an alien of that class, shall lie upon that person.

(5) His Majesty may by Order in Council revoke, alter, or add to any Order in Council made under this section as occasion requires.

(6) Any powers given under this section, or under any Order in Council made under this section, shall be in addition to, and not in derogation of, any other powers with respect to the expulsion of aliens, or the prohibition of aliens from entering the United Kingdom or any other powers of His Majesty.

**2. *Short title and application.***—(1) This Act may be cited as the Aliens Restriction Act, 1914.

(2) In the application of this Act to Scotland the expressions "the court" and "any court of summary jurisdiction" mean the sheriff; and the expressions "enter into recognizances with or without sureties" and "enter into recognizances" mean "find caution."

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THE ALIENS RESTRICTION (CONSOLIDATION)  
ORDER, 1914.

1914. No. 1374.

At the Court at Buckingham Palace, the 9th day of  
September, 1914.

PRESENT,

The KING's Most Excellent Majesty in Council.

WHEREAS by the Aliens Restriction Act, 1914, power is conferred upon His Majesty in time of war or imminent national danger or great emergency by Order in Council to impose restrictions on aliens, and to make such provisions as may be necessary or expedient for carrying such restrictions into effect:

And whereas a state of war at present exists between Great Britain and Germany, and also between Great Britain and Austria-Hungary:

And whereas by Orders in Council, dated respectively the 5th, 10th, 12th, and 20th of August in the present year, His Majesty was pleased to make various provisions under the said Act, and it is desirable to consolidate the said Orders in Council, with amendments:

Now, therefore, His Majesty is pleased, by and with the advice of his Privy Council, to order, and it is hereby ordered, as follows:—

PART I.

Restrictions on Aliens entering and leaving the United  
Kingdom.

APPROVED PORTS AND PROHIBITED PORTS.

*Definition of approved ports and prohibited ports.*

- 1.—(1) For the purposes of this Order, the following ports  
are approved ports, that is to say:—

Aberdeen (removed 11th Dec., 1914),  
Dundee,  
Newcastle-upon-Tyne,

West Hartlepool (removed 11th Dec., 1914),  
 Hull,  
 London,  
 Folkestone,  
 Falmouth,  
 Bristol,  
 Holyhead,  
 Liverpool,  
 Glasgow,  
 Dublin;  
 Southampton (added 23rd Oct., 1914),

and any other port or place in the United Kingdom is, for the purposes of this Order, a prohibited port.

(2) For the purposes of this Order the limits of the approved ports shall be those specified in the First Schedule to this Order, and any part of an approved port outside those limits shall be treated as though it were part of a prohibited port.

(3) A Secretary of State may, by order, after consulting the Admiralty and the Army Council, add any port to the list of approved ports, or remove any port from that list, and prescribe or alter the limits of any approved port; and this Order shall thereupon have effect accordingly.

#### ALIENS ENTERING THE UNITED KINGDOM.

##### *Aliens not to land at prohibited ports.*

2.—(1) An alien shall not land in the United Kingdom at a prohibited port:

Provided that—

- (a) where a Secretary of State is satisfied that an alien friend has arrived at a prohibited port in ignorance of the provisions of this Order or in any other circumstances entitling him to special consideration, and may safely be permitted to land, he may grant him permission accordingly; and
- (b) subject to the provisions of this Order the foregoing prohibition shall not, unless in any particular case an

aliens officer so directs, apply to an alien friend who is the master or a member of the crew of a vessel arriving at a prohibited port, if whilst he is on shore he complies with such requirements (if any) as may be imposed upon him or upon masters and seamen generally by an aliens officer at the port;

and any alien friend who lands in accordance with this proviso, and, if conditionally disembarked, who complies with the conditions, shall not be liable to any penalty for landing at the port in question.

*Alien enemies not to land without permits.*

3. An alien enemy shall not land in the United Kingdom at an approved port without the permission of a Secretary of State.

*Powers with respect to aliens landing at approved port.*

4. An alien arriving at an approved port may, if a Secretary of State so directs, or if an aliens officer at the port is satisfied that he cannot safely be permitted to land in the United Kingdom, be treated as though the port were a prohibited port.

*Detention of aliens arriving in United Kingdom.*

5. An alien landing in contravention of this Order, and an alien arriving at any port in circumstances in which he is prohibited from landing, may, until dealt with under this Order, be detained in such manner as a Secretary of State may direct and whilst so detained shall be deemed to be in legal custody.

*Aliens not to enter United Kingdom with firearms, &c.*

6. An alien shall not land at any port in the United Kingdom having in his possession—

- (a) any firearms or other weapons, ammunition, or explosives;

- (b) any petroleum spirit, naphtha, benzol, petroleum, or other inflammable liquid in quantities exceeding three gallons;
- (c) any apparatus or contrivance intended for or capable of being used for signalling apparatus, either visual or otherwise;
- (d) any carrier or homing pigeons;
- (e) any motor car, motor cycle, or air-craft; or
- (f) any cipher code or other means of conducting secret correspondence;

and where an alien lands with any such articles in his possession he shall forfeit the articles and shall be deemed to have imported them in contravention of the provisions of the Customs Consolidation Act, 1876, as though the articles in question were contained in the table of prohibitions and restrictions set out in section forty-two of that Act:

Provided that where an aliens officer considers that an alien friend arriving at any port may safely be permitted to land with any such articles as aforesaid in his possession, he may permit him to land accordingly, and the foregoing provisions of this article shall not apply.

### *Conditional Landing.*

7. An alien conditionally disembarked under the directions of an aliens officer for the purpose of inquiry or examination shall not for the purposes of this Order be deemed to have landed so long as the conditions are complied with.

### ALIENS LEAVING THE UNITED KINGDOM.

#### *Aliens not to Embark at Prohibited Ports.*

8. An alien shall not, except in pursuance of an order of deportation under this Order, embark in the United Kingdom at a prohibited port:

Provided that—

- (a) where a Secretary of State is satisfied that any alien friend who desires to embark at a prohibited port



may safely be permitted to do so, he may grant him permission accordingly; and

- (b) subject to the provisions of this Order the foregoing prohibition shall not, unless in any particular case an aliens officer so directs, apply to an alien friend who is the master or a member of the crew of a vessel leaving a prohibited port;

and any alien friend who embarks in accordance with this proviso shall not be liable to any penalty for embarking in the United Kingdom at the port in question.

*Provision as to Alien Enemies Leaving a Port without having landed.*

9. Where an alien enemy is about to leave any port on board a vessel on which he has arrived at the port he may for the purposes of this Order, if a Secretary of State so directs or if it appears necessary to an aliens officer in the interests of public safety, be treated as though he had embarked at that port in contravention of this Order, but shall not be subject to any fine or imprisonment for so embarking.

*Alien Enemies not to Embark without Permit.*

10. An alien enemy shall not, except in pursuance of an order of deportation under this Order, embark in the United Kingdom at an approved port, unless provided with a permit issued by a Secretary of State:

Provided that an alien enemy about to embark in the United Kingdom at an approved port, even when provided with such permit as aforesaid, may, if a Secretary of State so directs, or if in the opinion of an aliens officer he cannot safely be permitted to embark, be treated as though the port were a prohibited port.

*Detention of Aliens Embarking.*

11. An alien embarking or about to embark in the United Kingdom in contravention of this Order may, until dealt with

under this Order, be detained in such manner as a Secretary of State may direct, and whilst so detained shall be deemed to be in legal custody.

*Deportation of Aliens.*

12.—(1) A Secretary of State may order the deportation of any alien, and any alien with respect to whom such an order is made shall forthwith leave and thereafter remain out of the United Kingdom.

(2) Where an alien is ordered to be deported under this Order, he may, until he can, in the opinion of the Secretary of State, be conveniently conveyed to and placed on board a ship about to leave the United Kingdom, and whilst being conveyed to the ship, and whilst on board the ship until the ship finally leaves the United Kingdom, be detained in such manner as the Secretary of State directs, and, whilst so detained, shall be deemed to be in legal custody.

See Aliens Restriction (Amendment) Order. 1915, 13th April, *infra*, p. 122.

*Obligations on Masters of Vessels.*

13.—(1) The master of every vessel, whether British or foreign, arriving at or leaving a port in the United Kingdom shall, immediately on the arrival of the vessel at that port, or, as the case may be, not more than twenty-four hours before leaving that port, furnish to an aliens officer at that port, with respect to all persons on board the vessel, or intending to embark on the vessel, such particulars in such manner as the Secretary of State may direct, and shall otherwise take all reasonable steps in his power for securing the enforcement of this Order.

(2) The master of a vessel arriving at or leaving any port shall not permit any persons to land or to embark without the sanction of an aliens officer at the port.

(3) Where a person lands or embarks at any port in contravention of this Order, the master of the vessel from which he lands or on which he embarks shall, unless he proves the contrary, be deemed to have aided and abetted the offence.

*Obligation to afford Passage to Aliens.*

14. The master of a ship about to call at any port shall, if so required by a Secretary of State or an aliens officer, receive an alien and his dependants, if any, on board his ship and afford him or them a passage to that port, and proper accommodation and maintenance during the passage, and, if the ship is the same or belongs to the same owners as the ship in which the alien arrived in the United Kingdom, shall, if so required as aforesaid, afford such passage, accommodation, and maintenance free of charge.

*Aliens Officers.*

15.—(1) The following persons, that is to say—

(a) any immigration officers appointed under the Aliens Act, 1905; and

(b) any persons appointed for the purpose by a Secretary of State;

shall be aliens officers for the purposes of this Order at the various ports in the United Kingdom, and shall in the exercise of their powers act under general or special instructions from the Secretary of State, and, subject to such instructions, shall have power to enter on board any vessel, and to detain and examine all persons arriving at or leaving any port in the United Kingdom, and to require the production of any documents by such persons, and generally to take such steps as are sanctioned by this Order or as may be necessary for giving effect to this Order.

*EXCEPTIONS.**Part I. not to apply in certain cases.*

16. This Part of the Order shall not apply—

(a) to prisoners of war; or

(b) to children appearing to an aliens officer to be under the age of fourteen.

## PART II.

**Restrictions on Aliens residing in the United Kingdom.****RESIDENCE AND REGISTRATION OF ALIENS.***Power to order Aliens to reside in certain areas.*

17. A Secretary of State may by order require any alien enemy to reside or continue to reside in any place or district specified in the order, and the alien shall comply with the order.

*Prohibition on Alien Enemies residing in Prohibited Areas.*

18.--(1) An alien enemy shall not enter, or reside or continue to reside either temporarily or permanently in any of the areas specified in the Second Schedule to this Order (in this Order referred to as prohibited areas) unless provided with a permit issued by the registration officer of the district, subject to the general or special instructions of a Secretary of State.

(2) A Secretary of State may by Order, after consulting the Admiralty and the Army Council, add any area to the list of prohibited areas in the said Schedule, or remove any area or part of an area from that list; and this Order shall thereupon have effect accordingly. See par. 2, A. R. (Amendment) Order, 13th April, 1915, *infra*, p. 123.)

*Registration of Aliens.*

19.--(1) An alien residing in a prohibited area, and an alien enemy wherever resident, shall comply with the following requirements as to registration:--

- (a) he shall, as soon as may be, furnish to the registration officer of the registration district in which he is resident particulars as to the matters set out in the Third Schedule to this Order:
- (b) he shall, if he is about to change his residence, furnish to the registration officer of the registration district in which he is then resident particulars as to the

date on which his residence is to be so changed, and as to his intended place of residence, and on effecting any such change of residence he shall forthwith report himself to the registration officer of the registration district into which he moves:

- (c) he shall furnish to the registration officer of the registration district in which he is resident particulars of any circumstance affecting in any manner the accuracy of the particulars previously furnished by him for the purpose of registration within forty-eight hours after the circumstance has occurred.

(2) Where an alien is lodging with or living as a member of the household of any other person, it shall be the duty of that person either himself to furnish with respect to the alien the particulars aforesaid, or to give notice of the presence of the alien in his household to the registration officer.

(3) Where an alien has a household he shall furnish the particulars as aforesaid not only as respects himself, but as respects every alien who is living as a member of his household.

### *Register of Aliens.*

20.—(1) For the purposes of this Order, the chief officer of police of the police district shall be the registration officer, and the police district shall be the registration district:

Provided that where a prohibited area includes the whole or part of more than one police district, arrangements may be made by a Secretary of State for constituting that prohibited area a single registration district, and for the appointment of a registration officer for that district.

(2) A registration officer shall—

- (a) keep for his registration district a register for the purposes of this Act;
- (b) register therein all aliens resident in his district who furnish particulars for the purpose, by entering these particulars on the register;

- (c) enter on the register all other particulars furnished in accordance with this Order with respect to any alien so registered; and
- (d) if a registered alien ceases to be resident in his district, record the fact in the register.

(3) The obligation of a registration officer to enter particulars upon the register shall not be affected by the fact that the particulars may not have been furnished within the time required by this Order, without prejudice, however, to the liability of an alien to a penalty for not furnishing the particulars within the required time.

(4) Every alien shall furnish to the registration officer, in addition to any such particulars as aforesaid, any information which may reasonably be required for the purpose of registering the alien, or maintaining the correctness of the particulars entered on the register. (See A. R. (Amendment) Order, 13th April, 1915, par. 3. *infra*, p. 123.)

*Prohibition on Alien Enemies travelling more than five miles from Registered Address.*

21. An alien enemy shall not travel more than five miles from his registered place of residence unless furnished with a permit from the registration officer of the registration district in which that place of residence is situate, which permit shall not cover a period exceeding twenty-four hours from the date of its issue and shall be returned to the registration officer at the end of the period for which it was issued:

Provided, that—

- (a) any such permit may, if the registration officer in view of any special circumstances so decides, cover a period exceeding twenty-four hours, but not exceeding four days, from the date of its issue, subject, however, to the condition that the holder thereof shall on each day during the currency of the permit report himself to the registration officer of the district in which he then is, and subject also to any other conditions which may be prescribed by the registration officer granting the permit; and

- (b) where any such permit is granted to any person with a view to his leaving one registration district and going to reside in another, the permit may, at the end of the period for which it was issued, be delivered to the registration officer of the new district instead of being returned to the registration officer by whom it was granted; and
- (c) in the case of an alien enemy having a *bonâ fide* place of business more than five miles from his registered place of residence the registration officer may, if he thinks fit, grant a permit enabling him to travel to or from his place of business, which shall be renewable from time to time as and when the registration officer so directs.

#### POSSESSION OF FIREARMS, &c. BY ALIEN ENEMIES.

##### *Prohibition on Alien Enemies having Firearms, &c. in their Possession.*

22.—(1) An alien enemy shall not, except with the written permission of the registration officer of the district in which he resides, be in possession of—

- (a) any firearms, or other weapons, ammunition, or explosives, or material intended to be used for the manufacture of explosives;
- (b) any petroleum spirit, naphtha, benzol, petroleum, or other inflammable liquid in quantities exceeding three gallons;
- (c) any apparatus or contrivance intended for or capable of being used for a signalling apparatus, either visual or otherwise;
- (d) any carrier or homing pigeons;
- (e) any motor car, motor cycle, motor boat, yacht, or aircraft; or
- (f) any cipher code or other means of conducting secret correspondence;
- (g) any telephone installation;

- (h) any camera or other photographic apparatus;
- (i) any military or naval map, chart, or handbook.

(2) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting any contravention of the foregoing provision, he may grant a search warrant authorising any constable named therein to enter at any time any premises or place named in the warrant, if necessary by force, and to search the premises or place and every person found therein, and to seize any article which is being kept in the premises or place in contravention of this Article.

Where it appears to a superintendent or inspector of police, or any police officer of higher rank, that the case is one of great emergency, and that in the interests of the State immediate action is necessary, he may by a written order under his hand give to any constable the like authority as may be given by the warrant of a justice under this Article.

#### RESTRICTION ON CIRCULATION OF NEWSPAPERS.

##### *Restriction on circulation of newspapers amongst alien enemies.*

23.—(1) The circulation among alien enemies of any newspaper wholly or mainly in the language of a State, or any part of a State, at war with His Majesty, is prohibited, unless the permission in writing of a Secretary of State has been first obtained, and such conditions as may be prescribed by the Secretary of State are complied with.

(2) Any person publishing any newspaper for circulation in contravention of this Order shall be deemed to have acted in contravention of this Order, and where a Secretary of State is satisfied that any newspaper has been, or is about to be, published for circulation in contravention of this Order, he may authorise such persons as he thinks fit to enter, if needs be by force, any premises, and to seize any copies of the newspaper found thereon, and also any type or other plant used or capable of being used for printing or production of the newspaper, and to deal with any articles so seized in such manner as the Secretary of State may direct.



(3) In this Article, the expression "newspaper" includes periodical.

#### CARRYING ON OF BANKING BUSINESS.

##### *Restrictions with respect to Banking.*

24.—(1) An alien enemy shall not carry on or engage in any banking business except with the permission in writing of the Secretary of State, and to such extent and subject to such conditions and supervision as the Secretary of State may direct, and an alien enemy who is or has been carrying on or engaged in banking business shall not, except with the like permission, part with any money or securities in the bank where he is or has been carrying on or engaged in business, and shall, if so required, deposit any such money or securities in such custody as the Secretary of State may direct.

(2) Any constable, if authorised by a superintendent of police, or officer of higher rank, may, for the purpose of enforcing the provisions of this Article, enter, if necessary by force, and search or occupy any premises in which the business of banking is, or has been, carried on by an alien enemy.

(3) For the purposes of this Article, any person who is a member of a firm or a director of a company carrying on banking business in the United Kingdom shall be deemed to be carrying on banking business.

#### PROVISIONS AS TO CLUBS FREQUENTED BY ALIEN ENEMIES.

##### *Power to close Clubs.*

25.—(1) A chief officer of police, if so authorised by general or special order of the Secretary of State, may direct that any premises within his jurisdiction which, in his opinion, are used for the purposes of a club which is habitually frequented by alien enemies, shall be kept closed, either altogether or during such hours as may be required by him; and where any such direction is given in respect of any premises, no alien shall enter or be on the premises at any time when the premises are directed to be closed.

(2) Any constable, if authorised by the chief officer of police, may, for the purpose of enforcing the provisions of this Article, enter, if necessary by force, and search or occupy any premises to which an order under this Article relates.

25A. Change of name. (See text, *supra*, p. 21. See as to Armenians, &c., text, p. 10, *supra*.)

### PART III.

#### General.

#### *Penalty.*

26. If any person acts in contravention of or fails to comply with any provisions of this Order, he is liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a term not exceeding six months, and the court before which he is convicted may, either in addition to or in lieu of any such punishment, require that person to enter into recognizances with or without sureties to comply with the provisions of this Order or such provisions thereof as the court may direct.

If any person fails to comply with an order of the court requiring him to enter into recognizances the court or any court of summary jurisdiction sitting for the same place may order him to be imprisoned with or without hard labour for any term not exceeding six months.

#### *Disobedience to Aliens Officers and other offences.*

27.—(1) If any alien, master of a ship, or other person arriving at or leaving any port lands or embarks without the permission of an aliens officer, or refuses to answer any question reasonably put to him by an aliens officer, or makes or causes to be made any false return, false statement, or false representation to an aliens officer, or refuses to produce any document in his possession which he is required by an aliens officer to produce, or obstructs or impedes an aliens officer in the exercise of his powers or duties under the Order, he shall be deemed to have acted in contravention of this Order.

(2) If any person furnishes or causes to be furnished to a registration officer any false particulars, or, with a view to obtaining any permit or permission under this Order, makes or causes to be made any false statement or false representation, he shall be deemed to have acted in contravention of this Order.

*Persons aiding and abetting.*

28. If any person aids or abets any person in any contravention of this Order, or knowingly harbours any person whom he knows or has reasonable ground for supposing to have acted in contravention of this Order, he shall be deemed himself to have acted in contravention of this Order.

*Arrest.*

29. Any person who acts in contravention of this Order, or is reasonably suspected of having so acted, or being about so to act, may be taken into custody without warrant by an aliens officer or by any constable.

*Additional powers of Secretary of State.*

30.—(1) A Secretary of State may, if he thinks it necessary in the interests of public safety, direct that any of the provisions of this Order as to alien enemies shall in particular cases be applicable to other aliens, and thereupon such provisions shall apply accordingly.

(2) A Secretary of State may, if he thinks fit, direct that any powers or duties assigned under this Order to aliens officers or to registration officers shall be discharged by other persons deputed by the Secretary of State for the purpose.

(3) The Secretary of State, with a view to giving full effect to this Order, may direct that passengers on ships entering or leaving any port in the United Kingdom shall be subject to such restrictions, control, and supervision as may appear necessary or expedient, and may impose general conditions as respects ships entering or leaving any such port, and it shall be the duty of all persons to comply with any such direction.

*Interpretation.*

## 31. For the purposes of this Order—

The expression “police district” means any district for which there is a separate police force; and the expression “chief officer of police” means the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police force of the district;

The expression “alien friend” means an alien whose sovereign or State is at peace with His Majesty, and the expression “alien enemy” means an alien whose sovereign or State is at war with His Majesty; and

References to landing or embarking shall, unless the context otherwise implies, be deemed to include references to attempting to land or attempting to embark respectively.

*Application to Scotland and Ireland.*

## 32.—(1) In the application of this Order to Scotland—

The expressions “the court” and “any court of summary jurisdiction” mean the sheriff;

The expressions “enter into recognizances with or without sureties” and “enter into recognizances” mean “find caution.”

## (2) In the application of this Order to Ireland—

The expression “police district” means the police district of Dublin metropolis and any county or other area for which a county inspector of the Royal Irish Constabulary or officer having the rank of such county inspector is appointed, and the expression “chief officer of police” means as respects the police district of Dublin metropolis the Chief Commissioner of the Dublin Metropolitan Police and as respects any other police district the county inspector of the Royal Irish Constabulary or officer having the rank of such county inspector as the case may be.

The expression “superintendent of police” includes in the case of the Royal Irish Constabulary a sergeant and any officer of higher rank.

*Order not to apply to Ambassadors, &c.*

33. Nothing in this Order shall be construed as imposing any restriction or disability on any foreign ambassador or other public minister duly authorised, or any servants in actual attendance upon any such ambassador or public minister.

*Short title, construction, and revocation.*

34.—(1) This Order may be cited as the Aliens Restriction (Consolidation) Order, 1914.

(2) The Interpretation Act, 1889, shall apply for the purpose of the interpretation of this Order in like manner as it applies for the purpose of the interpretation of an Act of Parliament.

(3) The said Orders in Council of the 5th, 10th, 12th, and 20th of August, imposing restrictions on aliens, are hereby revoked:

Provided that the revocation of any such Order shall not—

- (a) affect the previous operation of any Order so revoked or anything duly done or suffered under any Order so revoked; or
- (b) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any Order so revoked; or
- (c) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Order so revoked; or
- (d) affect any proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any permission or direction given, or order or requirement made, or other action taken under any Order so revoked shall be deemed to have been given, made, or taken under the corresponding provision of this Order.

## SCHEDULES.

### FIRST SCHEDULE.

#### LIMITS OF APPROVED PORTS.

Approved Port.	Parts included within Limits of Port.
Dundee .....	Camperdown jetty.
Newcastle-upon-Tyne....	Newcastle quay.
Hull .....	Riverside quay.
London .....	Tilbury docks and pontoon.
Folkestone .....	Railway pier.
Falmouth.....	Outer arm of harbour pier.
Bristol.....	Landing stage, Avonmouth docks.
Holyhead .....	London and North-Western Railway quay, east side.
Liverpool.....	Landing stage.
Glasgow .....	Meadowside quay.
Dublin .....	North Wall and Kingstown pier.
Southampton .....	

### SECOND SCHEDULE.

#### PROHIBITED AREAS.

The following areas are prohibited areas in England:—

#### CHESHIRE.

*County Boroughs.*—Birkenhead: Chester: Wallasey.

*Urban Districts.*—Bromborough: Ellesmere Port and Whitby: Higher Bebington: Hoole: Hoylake and West Kirby: Lower Bebington: Neston and Parkgate: Runcorn.

*Rural Districts.*—Chester (Civil Parishes of—Bache, Backford, Blacom cum Crabwall, Bridge Trafford, Capenhurst, Caughall, Chorlton by Backford, Croughton, Dunham-on-the-Hill, Elton, Great Saughall, Hapsford, Hoole Village, Ince, Lea by Backford, Little Saughall, Little Stanney, Mickle Trafford, Mollington, Moston, Newton-by-Chester, Picton,

Shotwick, Shotwick Park, Stoke, Thornton-le-Moors, Upton-by-Chester, Wervin, Wimbolds Trafford, and Woodbank only): Rancorn (Civil Parishes of—Acton Grange, Antrobus, Appleton, Bartington, Crowley, Daresbury, Dutton, Grappenhall, Great Budworth, Hatton, Higher Whitley, Keckwick, Latchford Without, Lower Whitley, Moore, Newton-by-Daresbury, Preston-on-the-Hill, Seven Oaks, Stockham, Stockton Heath, Stretton, Thelwall, Walton Inferior, Walton Superior, Aston-by-Sutton, Aston Grange, Clifton, Halton, Norton, Sutton, and Weston only): Wirral.

#### CORNWALL.

*Municipal Boroughs.*—Falmouth: Helston: Penryn: Penzance: St. Ives: Saltash: Truro.

*Urban Districts.*—Camborne: Hayle: Ludgvan: Madron: Paul: Phillack: Redruth: St. Just: Torpoint.

*Rural Districts.*—East Kerrier: Helston: Redruth: St. Germans: Truro: West Penwith.

#### DEVONSHIRE.

*County Boroughs.*—Devonport: Plymouth.

*Urban Districts.*—East Stonehouse: Ivybridge.

*Rural Districts.*—Plympton St. Mary: Tavistock (Civil Parish of Bere Ferrers only).

#### DORSETSHIRE.

*Municipal Boroughs.*—Dorchester: Poole: Wareham: Weymouth and Melcombe Regis.

*Urban Districts.*—Portland: Swanage.

*Rural Districts.*—Dorchester: Poole: Wareham and Porbeck: Weymouth.

#### DURHAM.

*County Boroughs.*—Gateshead: South Shields: Sunderland: West Hartlepool.

*Municipal Boroughs.*—Durham: Hartlepool: <sup>c</sup>Jarrow: Stockton-on-Tees. <sup>a</sup>

*Urban Districts.*—Annfield Plain: Benfieldside: Blaydon: Brandon and Byshottles: Chester-le-Street: Consett: Felling: Hebburn: Hetton: Houghton-le-Spring: Leadgate: Ryton: Seaham Harbour: Southwick-on-Wear: Spennymoor: Stanley: Tanfield: Tow Law: Whickham: Willington.

*Rural Districts.*—Chester-le-Street: Durham: Easington: Hartlepool: Houghton-le-Spring: Lanchester: Sedgefield: South Shields: Stockton: Sunderland.

### ESSEX.

*County Borough.*—Southend-on-Sea.

*Municipal Boroughs.*—Chelmsford: Colchester: Harwich: Maldon.

*Urban Districts.*—Brentwood: Brightlingsea: Burnham-on-Crouch: Clacton: Frinton-on-Sea: Grays Thurrock: Shoeburyness: Tilbury: Walton-on-the-Naze: Witham: Wivenhoe.

*Rural Districts.*—Billericay: Braintree (Civil Parishes of —Feering, Great Coggeshall, Fairsted, Faulkbourne, Hatfield Peverel, Kelvedon, Little Coggeshall, Markshall, Rivenhall, and Terling only): Chelmsford: Lexden: Maldon: Orsett: Rochford: Romford (Civil Parishes of Cranham, Great Warley, Rainham, Upminster, and Wennington only): Tendring.

### GLOUCESTERSHIRE.

*County Borough.*—Bristol.

*Urban Districts.*—Coleford: Kingswood.

*Rural Districts.*—Chipping Sodbury: Lydney: Thornbury: Warmley: West Dean.

### HAMPSHIRE.

*County Boroughs.*—Bournemouth: Portsmouth: Southampton.

*Municipal Boroughs.*—Christchurch: Lymington: Romsey.

*Urban Districts.*—Eastleigh and Bishopstoke: Fareham: Gosport and Alverstoke: Havant: Itchen: Warblington.

*Rural Districts.*—Christchurch: Fareham: Havant Lymington: New Forest: Romsey: South Stoneham.



## ISLE OF WIGHT.

The whole island.

## KENT.

*County Borough.*—Canterbury.

*Municipal Boroughs.*—Chatham: Deal: Dover: Faversham: Folkestone: Gillingham: Gravesend: Hythe: Lydd: Maidstone: Margate: New Romney: Queenborough: Ramsgate: Rochester: Sandwich: Tenterden.

*Urban Districts.*—Ashford: Broadstairs and St. Peter's: Cheriton: Herne Bay: Milton Regis: Northfleet: Sandgate: Sheerness: Sittingbourne: Walmer: Whitstable: Wrotham.

*Rural Districts.*—Blean: Bridge: Cranbrook: Dover: East Ashford: Eastry: Elham: Faversham: Hollingbourne: Hoo: Isle of Thanet: Maidstone: Malling: Milton: Romney Marsh: Sheppey: Strood: Tenterden: West Ashford.

## LANCASHIRE.

*County Boroughs.*—Barrow-in-Furness: Blackpool: Bootle: Liverpool: St. Helens: Southport.

*Municipal Boroughs.*—Lancaster: Morecambe: Widnes.

*Urban Districts.*—Bispham-with-Norbreck: Cranforth: Dalton-in-Furness: Fleetwood: Formby: Grange: Great Crosby: Heysham: Huyton-with-Roby: Kirkham: Lathom and Burscough: Litherland: Little Crosby: Lytham: Ormskirk: Poulton-le-Fylde: Preesall: Prescott: Rainford: St. Annes-on-the-Sea: Skelmersdale: Thornton: Ulverston: Waterloo and Seaforth.

*Rural Districts.*—Fylde: Garstang: Lancaster: Lunesdale: Sefton: Ulverston: West Lancashire: Whiston.

## LINCOLNSHIRE.

*County Borough.*—Grimsby.

*Municipal Boroughs.*—Boston: Louth.

*Urban Districts.*—Alford: Barton-upon-Humber: Brigg: Broughton: Brumby and Frodingham: Cleethorpe with

Thruncooe: Holbeach: Long Sutton: Mablethorpe: Market  
 Rasen: Roxby cum Risby: Scunthorpe: Skegness: Spalding:  
 Sutton Bridge: Winterton.

*Rural Districts.*—Boston: Caistor: Crowland: East Elloe:  
 Glanford Brigg: Grimsby: Louth: Sibsey: Spilsby: Spalding.

## LONDON.

St. Katharine's, London, Surrey Commercial, West India,  
 Millwall, East India, R. Victoria, R. Albert Docks. (11th  
 Nov., 1914.)

## MONMOUTHSHIRE.

The whole county.

## NORFOLK.

The whole county.

## NORTHUMBERLAND.

*County Boroughs.*—Newcastle-upon-Tyne: Tynemouth.

*Municipal Boroughs.*—Berwick-upon-Tweed: Morpeth:  
 Wallsend.

*Urban Districts.*—Alnwick: Amble: Ashington: Bedling-  
 tonshire: Blyth: Cramlington: Earsdon: Gosforth: Long-  
 benton: Newbiggin-by-the-Sea: Newburn: Prudhoe:  
 Rothbury: Seaton Delaval: Seghill: Weetslade: Whitley and  
 Monkseaton.

*Rural Districts.*—Alnwick: Belford: Castle Ward: Glen-  
 dale: Hexham (Civil Parishes of—Bearl, Broomhaugh,  
 Broomley, Bywell, Dukershagg, Espershields, Healey, Hedley,  
 High Fotherley, Horsley, Nafferton, Newlands, Newton,  
 Newton Hall, Ovingham, Ovington Riding, Shotley High  
 Quarter, Shotley Low Quarter, Spital, Stelling, Styford, Welton  
 Whittle, Whittonstall, and Wylam only): Norham and Island-  
 shires: Morpeth: Rothbury.

## SOMERSET.

*Urban Districts.*—Burnham: Clevedon: Highbridge: Portis-  
 head: Weston-super-Mare.

*Rural Districts.*—Axbridge: Clutton (except the Parishes of Chilcompton, Farrington Gurmey, and Stone Easton): Keynsham: Long Ashton.

#### SUFFOLK.

The whole county.

#### SUSSEX.

The whole county.

#### YORKSHIRE.

*County Boroughs.*—Kingston-upon-Hull: Middlesbrough.

*Municipal Boroughs.*—Beverley: Bridlington: Hedon: Scarborough: Thornaby-on-Tees.

*Urban Districts.*—Cottingham: Eston: Filey: Great Driffield: Guisborough: Hessele: Hinderwell: Hornsea: Loftus: Malton: Norton: Pickering: Redcar: Saltburn-by-the-Sea: Scalby: Skelton and Brotton: South Bank in Normanby: Whitby: Withernsea.

*Rural Districts.*—Beverley: Bridlington: Driffield: Guisborough: Kirkby Moorside: Malton: Middlesbrough: Norton: Patrington: Pickering: Scarborough: Sculcoates: Sherburn: Skirlaugh: Stokesley: Whitby.

The following areas are prohibited areas in Wales:—

#### GLAMORGANSHIRE.

The whole county.

#### PEMBROKESHIRE.

*Municipal Boroughs.*—Haverfordwest: Pembroke: Tenby.

*Urban Districts.*—Fishguard: Milford Haven: Narberth: Neyland.

*Rural Districts.*—Haverfordwest: Narberth: Pembroke.

The following areas are prohibited areas in Scotland:—

•  
ABERDEENSHIRE.

*Parishes.*—Aberdeen, Aberdour, Auchterless, Balhelvie, Cairney, Crimond, Cruden, Culsalmond, Daviot, Drumblade, Drumoak, Dyce, Echt, Ellon, Fintray, Forgue, Foveran, Fraserburgh, Fyvie, Glass, Huntly, Insoh, Kinnellar, King Edward, Kinnethmont, Logie Buchan, Longside, Lonmay, Methlick, Monquhitter, New Deer, Newhills, New Machar, Old Deer, Old Machar, Peterculter, Peterhead, Pitsligo, Rathen, Rayne, St. Fergus, Skene, Slains, Strichen, Tarves, Turriff, Tyrie, Udhay.

ARGYLLSHIRE.

The whole county.

AYRSHIRE.

*Parishes.*—Ardrossan, Ayr, Beith, Coylton, Craigie, Dalry, Dalrymple, Dreghorn, Dundonald, Dunlop, Fenwick, Irvine, Kilbirnie, Kilmarnock, Kilmaurs, Kilwinning, Largs, Mauchline, Maybole, Monkton and Prostwick, Ochiltree, Riccarton, Stair, Stevenston, Stewarton, Symington, Tarbolton, West Kilbride.

BANFFSHIRE.

*Parishes.*—Alvah Banff, Boharm, Botriphnie, Boyudie, Cullen, Deskford, Fordyce, Forglen, Gamrie, Grange, Inverkeithny, Keith, Marpoth, Ordiquhill, Rathven, Rothiemay.

BERWICKSHIRE.

*Parishes.*—Abbey St. Bathans, Ayton, Bunkle and Preston, Chirnside, Cockburnspath, Coldingham, Coldstream, Cran-shaws, Duns, Eccles, Edrom, Eyemouth, Fogo, Foulden, Greenlaw, Hutton, Ladykirk, Langton, Longformacus, Mordington, Polwarth, Swinton, Whitsome.

•  
•  
BUTESHIRE.

The whole county.

## CAITHNESS-SHIRE.

The whole county.

## DUMBARTONSHIRE.

*Parishes.*—Arrochar, Bonhill, Cardross, Dumbarton, Kilmarnock, Luss, New Kilpatrick, Old Kilpatrick, Roseneath, Row.

## EDINBURGHSHIRE (MID-LOTHIAN).

*Parishes.*—Borthwick, Carrington, Cockpen, Colinton, Corstorphine, Cramond, Cranston, Crichton, Currie, Dalkeith, Edinburgh, Fala, Glencorse, Inveresk, Kirknewton, Lasswade, Leith, Liberton, Mid Calder, Newbattle, Newton, Penicuik, Ratho, Temple, West Calder.

## ELGINSHIRE.

*Parishes.*—Alves, Bellie, Birnie, Dallas, Drainie, Duffus, Dyke and Moy, Edinkillie, Elgin, Forres, Kinloss, New Spynie, Rafford, Rothes, St. Andrews Lhanbryde, Speymouth, Urquhart.

## FIFESHIRE.

The whole county.

## FORFARSHIRE.

*Parishes.*—Arbirlot, Arbroath and St. Vigeans, Auchterhouse, Barry, Brechin, Carmylie, Craig, Dun, Dundee Combination, Dunnichen, Eassie and Nevay, Farnell, Forfar, Fowls - Easter, Glamis, Guthrie, Inverarity, Inverkeillor, Kettins, Kinnell, Kinnettles, Kirkden, Liff and Benvie, Logie Pert, Lunan, Lundie, Mains and Strathmartine, Marytown, Monifieth, Monikie, Montrose, Murroes, Newtyle, Panbride, Tealing.

## HADDINGTONSHIRE.

The whole county.

## INVERNESS-SHIRE.

So much of the County, including the Western Islands, as lies to the north and west of the Caledonian Canal and the following Parishes to the south and east of the Canal:—Ardersier, Croy and Dalcross, Daviot and Dunlichty, Dores, Inverness, Kilmallie, Kilmonivaig, Moy and Dalarossie. Petty.

## KINCARDINESHIRE.

The whole county.

## KINROSS.

The whole county.

## LINLITHGOWSHIRE (WEST LOTHIAN).

The whole county.

## NAIRNSHIRE.

The whole county.

## ORKNEY.

The whole county.

## PERTHSHIRE.

*Parishes.*—Abernyte, Errol, Inchture, Longforan.

## RENFREWSHIRE.

*Parishes.*—Erskine, Greenock, Houston and Killellan, Inchinnan, Inverkip, Kilbarchan, Kilmacolm, Lochwinnoch, Port Glasgow.

## ROSS AND CROMARTY.

The whole County, including the Western Islands.

## STIRLINGSHIRE.

*Parishes.*—Airth, Buchanan, Grangemouth. Muiravonside.

## SUTHERLANDSHIRE.

The whole county.

## ZETLAND.

The whole county.

The following areas are prohibited areas in Ireland:—

## ANTRIM.

*County Borough.*—Belfast.

*Urban Districts.*—Ballyclare: Ballymena: Carrickfergus: Larne: Lisburn.

*Rural Districts.*—Antrim: Ballymena: Belfast: Larne: Lisburn.

## CORK.

The whole county.

## DONEGAL.

*Rural Districts.*—Inishowen: Millord: Londonderry, No. 2.

## DOWN.

*Urban Districts.*—Bangor: Donaghadee: Holywood: Newtown Ards.

*Rural Districts.*—Castlereagh: Downpatrick: Hillsborough: Newtown Ards.

## DUBLIN.

The whole county.

## KERRY.

The whole county.

## LONDONDERRY.

• *County Borough*.—Londonderry.

*Rural District*.—Londonderry ("North West Liberties" only).

## WATERFORD.

*Rural District*.—Youghal No. 2.

## THIRD SCHEDULE.

MATTERS IN RESPECT OF WHICH PARTICULARS ARE TO BE  
FURNISHED.

Name .....

Nationality and birth-place ...

Occupation .....

Sex .....

Age .....

Personal description and, if so  
required, a photograph of the alien.

Descriptive mark (if any) .....

Finger prints, if so required ...

Place of residence (including  
nature of tenure or occupancy) ...

Place of business (if any) .....

Date of commencement of resi-  
dence .....

Whether the alien has been or  
is in the service of any foreign  
government, and, if so, for how  
long and in what capacity.

*Note*.—If the alien has a household, he must furnish the  
particulars aforesaid not only as respects himself, but also as  
respects every alien who is living as a member of his household.



THE ALIENS RESTRICTION (AMENDMENT) •  
ORDER, 1915.

1915. No. 301.

At the Court at Windsor Castle, the 13th day of April, 1915.

PRESENT:

The King's Most Excellent Majesty in Council.

WHEREAS by the Aliens Restriction (Consolidation) Order, 1914 (hereinafter referred to as the principal Order), His Majesty has been pleased to impose restrictions upon aliens and to make various regulations for carrying those restrictions into effect:

And whereas it is expedient to amend the principal Order in manner hereinafter appearing:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:—

*Requirements as to Passports, &c. in the case of Alien  
Passengers.*

1.—(1) After the twenty-fifth day of April nineteen hundred and fifteen an alien coming from, or intending to proceed to, any place out of the United Kingdom as a passenger shall not, without the special permission of a Secretary of State, land or embark at any port in the United Kingdom unless he has in his possession a passport issued to him not more than two years previously by or on behalf of the government of the country of which he is a subject or a citizen, or some other document satisfactorily establishing his nationality and identity, to which passport or document there must be attached a photograph of the alien to whom it relates.

(2) Where any such special permission of a Secretary of State has been granted subject to any conditions, and the person to whom it is granted fails to comply with any such condition, he shall be deemed to be guilty of a contravention of the principal Order.

(3) For the purposes of this Article the expression "passenger" includes any person carried on a ship other than the master and persons employed in the working or service of the ship.

(4) This Article shall have effect as if it were included in Part I. of the Principal Order, and that Order shall have effect accordingly.

*Requirements as to Passports.*

2.—(1) After the twenty-fifth day of April nineteen hundred and fifteen an alien shall not, without the special permission of the registration officer, enter any prohibited area unless he has in his possession a passport issued to him not more than two years previously by or on behalf of the government of the country of which he is a subject or citizen, or some other document satisfactorily establishing his nationality and identity, to which passport or document there must be attached a photograph of the alien to whom it relates:

Provided that where an alien is at the date of this Order resident in a prohibited area this provision shall not prevent him entering that area so long as his residence is in that area.

(2) Where any such special permission of a registration officer has been granted subject to any conditions, and the person to whom it is granted fails to comply with any such condition, he shall be deemed to be guilty of a contravention of the principal Order.

(3) This Article shall have effect as if it were included in Part II. of the principal Order, and that Order shall have effect accordingly.

*Registers of Aliens to be kept by Hotel Keepers, &c.*

3.—(1) After the twenty-fifth day of April nineteen hundred and fifteen it shall be the duty of the keeper of every hotel, inn, boarding-house, and lodging-house, to ascertain and enter in a register kept for the purpose the names and nationality of all persons over the age of fourteen years staying at the hotel, inn, boarding-house, or lodging-house, who are aliens, together with the dates of their arrival and departure, their destinations on departure, and such other particulars as may be

prescribed by a Secretary of State, and if the keeper of an hotel, inn, boarding-house, or lodging-house, fails to do so, or if he makes any entry in any such register which he knows or could by the exercise of reasonable diligence have ascertained to be false, he shall be deemed to be guilty of a contravention of the principal Order.

(2) The keeper of every hotel, inn, boarding-house, or lodging-house, shall also, if directions for the purpose are issued by a Secretary of State, make to the registration officer of the registration district in which the hotel, inn, boarding-house, or lodging-house is situate, such returns as to the particulars aforesaid, at such times or intervals, and in such form as may be specified in such directions, and if he fails to do so, or makes any false return, he shall be deemed to be guilty of a contravention of the principal Order.

(3) It shall be the duty of every person who stays at an hotel, inn, boarding-house, or lodging-house, to furnish to the keeper thereof and sign a statement containing such information as such keeper may require for the purpose of compiling such register as aforesaid, and if any person fails to do so, or gives any false information, he shall be deemed to be guilty of a contravention of the principal Order.

(4) Every register kept under this Article shall, at all reasonable hours, be open to inspection by any officer of police, or by any other person authorised by a Secretary of State.

(5) For the purposes of this Article the expression "keeper of a lodging-house" shall include any person who for reward receives any other person to lodge with him or in his house, and where any hotel, inn, boarding-house, or lodging-house, is under the management of a manager the expression "keeper" shall in relation thereto include such manager.

(6) This Article shall have effect as if it were included in Part II. of the principal Order, and that Order shall have effect accordingly.

#### *Short Title.*

4. This Order may be cited as the Aliens Restriction (Amendment) Order, 1915.

ALMERIC FITZROY.

## APPENDIX B.

## DEFENCE OF THE REALM.

THE DEFENCE OF THE REALM (CONSOLIDATION)  
REGULATIONS, 1914.

1914. No. 1699.

At the Court at Buckingham Palace, the 28th day of  
November, 1914.

## PRESENT:

The King's Most Excellent Majesty in Council.

Whereas by the Defence of the Realm Consolidation Act, 1914, His Majesty has power during the continuance of the present war to issue Regulations for securing the public safety and the defence of the Realm subject to and in accordance with that Act:

And whereas by Orders in Council dated respectively the 12th of August, the 1st and 17th of September, and the 14th of October, 1914, His Majesty was pleased to issue various Regulations under the Defence of the Realm Act, 1914, and the Defence of the Realm (No. 2) Act, 1914, and by virtue of the said Defence of the Realm Consolidation Act, 1914, those Orders in Council shall until altered or revoked by an Order in Council under the last-mentioned Act continue in force and have effect as if made under that Act:

And whereas it is expedient to revoke the said Orders in Council and to issue such regulations as are herein-after contained:

Now, therefore, His Majesty is pleased, by and with the

advice of His Privy Council, to order, and it is hereby ordered as follows:—

GENERAL REGULATIONS.

*Directions as to Non-interference with Persons and Property.*

1. The ordinary avocations of life and the enjoyment of property will be interfered with as little as may be permitted by the exigencies of the measures required to be taken for securing the public safety and the defence of the Realm, and ordinary civil offences will be dealt with by the civil tribunals in the ordinary course of law.

The Admiralty and Army Council, and members of the Naval and Military Forces, and other persons executing the following Regulations shall, in carrying those Regulations into effect, observe these general principles.

POWERS OF COMPETENT NAVAL AND MILITARY AUTHORITIES,  
&c.

*Power to take Possession of Land, &c.*

2. It shall be lawful for the competent naval or military authority and any person duly authorised by him, where for the purpose of securing the public safety or the defence of the Realm it is necessary so to do—

- (a) to take possession of any land and to construct military works, including roads, thereon, and to remove any trees, hedges, and fences therefrom;
- (b) to take possession of any buildings or other property, including works for the supply of gas, electricity, or water, and of any sources of water supply;
- (c) to take such steps as may be necessary for placing any buildings or structures in a state of defence;
- (d) to cause any buildings or structures to be destroyed, or any property to be moved from one place to another, or to be destroyed;
- (e) to take possession of any arms, ammunition, explosive substances, equipment, or warlike stores (including lines, cables, and other apparatus intended to be laid or used for telegraphic or telephonic purposes);

- (f) to do any other act involving interference with private rights of property which is necessary for the purpose aforesaid.

It shall be lawful for the Admiralty or Army Council to take possession of any unoccupied premises for the purpose of housing workmen employed in the production, storage, or transport of war material. (See Order in Council, 23rd March, 1915, par. 1.)

*Access to Land, &c.*

3. The competent naval or military authority or any person duly authorised by him shall have right of access to any land or buildings or other property whatsoever.

*Power to require Removal of Vehicles, &c.*

6. The competent naval or military authority may by order require all or any vehicles, boats, vessels, aircraft, transport animals, live stock, foodstuffs, fuel, tools, and implements of whatever description, and all or any forms of equipment and warlike stores, within any area specified in the order to be removed from that area within such time as may be so specified, or in the case of warlike stores incapable of removal to be destroyed, and if any person being the owner or having control thereof fail to comply with the requisition, he shall be guilty of an offence against these regulations, and the competent naval or military authority may himself cause them to be removed or in the case of warlike stores to be destroyed.

*Power to clear Areas of Inhabitants.*

9. The competent naval or military authority may by order require the whole or any part of the inhabitants of any area specified in the order to leave that area if the removal of such inhabitants from that area is necessary for naval or military reasons, and if any person to whom the order relates fails to comply with the order he shall be guilty of an offence against these regulations and the competent naval or military authority may cause such steps to be taken as may be necessary to enforce compliance therewith.

*Power to require Extinguishment of Lights.*

11. The Secretary of State or any person authorised by him may by order direct that all lights, or lights of any specified class or description, shall be extinguished or obscured in such manner, between such hours, within such area, and during such period, as may be specified in the order, and if any light is not extinguished or obscured as required by the order, any person having control of the light for the time being, and the occupier or other person having control or management of or being in charge of any premises or any vehicle in or on which the light is displayed, shall be guilty of a summary offence against these regulations, and any person authorised by the Secretary of State in that behalf, or any police constable, or, if no police constable is available, any soldier or sailor on sentry patrol or other similar duty, may extinguish or obscure any light which is not extinguished or obscured in accordance with the order, and for that purpose may enter any premises or stop and seize any vehicle or do any other act that may be necessary.

Any such order as aforesaid may provide that vehicles or vehicles of any specified class or description shall, when travelling within the area specified in the order during the period to which the order applies, carry such lamps as may be specified in the order properly trimmed, lighted, and attached, and any police constable may stop and seize any vehicle which does not carry lamps in accordance with the order, and the person in charge or having control of the vehicle shall be guilty of a summary offence against these regulations.

The powers conferred by this regulation shall be in addition to and not in derogation of the powers conferred on the competent naval or military authority by Regulation 12, and the competent naval or military authority may, notwithstanding anything in an order under this regulation, on any occasion that he considers it necessary for any naval or military purpose require any lights to be lighted or kept lighted, or require lights on any vehicle to be extinguished.

In the application of this regulation to Scotland, references to the Secretary for Scotland shall be substituted for references to the Secretary of State.

*Extinguishment of Lights.*

12. The competent naval or military authority may by order direct that all lights or lights of any specified class or description shall be extinguished or obscured in such manner, between such hours, within such area, and during such period, as may be specified in the order, and, if any light is not extinguished or obscured as required by the order, any person having control of the light for the time being, and the occupier or other person having control or management of or being in charge of any premises or any vehicle in or on which such light is displayed, shall be guilty of an offence against these regulations, and any person authorised by the competent naval or military authority in that behalf, or any police constable, or any soldier or sailor on sentry patrol or other similar duty, may extinguish or obscure any light which is not extinguished or obscured in accordance with the order, and for that purpose may enter any premises or stop and seize any vehicle or do any other act that may be necessary.

12A. No lamp shall without lawful authority be carried on any vehicle (other than a locomotive or carriage on a railway) which displays any coloured light except such coloured lights as may be required by any law or regulation for the time being in force.

No lamp shall without lawful authority be carried on any such vehicle unless it is so constructed, fitted, and attached—

- (a) as not to be capable of movement independent of the movement of the vehicle; and
- (b) as not to throw light in any direction other than that in which the vehicle is proceeding or is intended to proceed, except in the case of lamps required by any law or regulation for the time being in force to throw its light in some other direction.

Where any lamp is carried in any vehicle in contravention of this regulation the person in charge or having control of the vehicle shall be guilty of an offence against these regulations:

Provided that nothing in this regulation shall be construed as affecting the red and green side panels with which lamps used on vehicles are usually fitted.



*Power to require Inhabitants to remain Indoors.*

13. The competent naval or military authority may by order require every person within any area specified in the order to remain within doors between such hours as may be specified in the order, and in such case, if any person within that area is or remains out between such hours without a permit in writing from the competent naval or military authority or some person duly authorised by him, he shall be guilty of an offence against these regulations.

*Power to remove Suspects from Specified Areas.*

14. Where a person is suspected of acting, or of having acted, or of being about to act in a manner prejudicial to the public safety or the defence of the Realm and it appears to the competent naval or military authority that it is desirable that such person should be prohibited from residing in or entering any locality, the competent naval or military authority may by order prohibit him from residing in or entering any area or areas which may be specified in the order and upon the making of such an order the person to whom the order relates shall, if he resides in any specified area, leave that area within such time as may be specified by the order, and shall not subsequently reside in or enter any area specified in the order, and if he does so, he shall be guilty of an offence against these regulations. Provided that if the person with respect to whom it is proposed to make such an order as aforesaid undertakes to comply with such conditions as to reporting to the police, restriction on movements, or otherwise as may be imposed on him, the order may, instead of requiring him to cease to reside in any locality, authorise him to continue to reside therein if he complies with such conditions as to the matters aforesaid as may be specified in the order, and if any person in respect of whom such an order is made fails to comply with any such conditions he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, par. 5.)

Any such order may further require the person to whom the order relates to report for approval his proposed place of residence to the competent naval or military authority and to proceed thereto and report his arrival to the police within such time as may be specified in the order, and not subsequently to

change his place of residence without leave of the competent naval or military authority, and in such case if he fails to comply with the requirements of the order he shall be guilty of an offence against these regulations.

*Restrictions on Persons proceeding to or from Ports in Outlying Islands.*

14A. Where the Admiralty are of opinion that in view of the public safety or the defence of the realm, it is desirable to impose restrictions on persons proceeding to or from ports in any outlying islands forming part of the United Kingdom, the Secretary of State may by order direct that persons on ships entering or leaving any such ports specified in the order shall be subject to such restrictions as may be so specified, including such requirements as to the possession of permits as may be so specified, and if any person fails to comply with any such directions or requirements he shall be guilty of an offence against these regulations. (See Order in Council, 13th April, 1915, par. 1.)

14B. Where on the recommendation of a competent naval or military authority or of one of the advisory committees hereinafter mentioned it appears to the Secretary of State that for securing the public safety or the defence of the Realm it is expedient in view of the hostile origin or associations of any person that he shall be subjected to such obligations and restrictions as are hereinafter mentioned, the Secretary of State may by order require that person forthwith, or from time to time, either to remain in, or to proceed to and reside in, such place as may be specified in the order, and to comply with such directions as to reporting to the police, restriction of movement, and otherwise as may be specified in the order, or to be interned in such place as may be specified in the order:

Provided that any such order shall, in the case of any person who is not a subject of a State at war with His Majesty, include express provision for the due consideration by one of such advisory committees of any representations he may make against the order.

If any person in respect of whom any order is made under

this regulation fails to comply with any of the provisions of the order he shall be guilty of an offence against these regulations.

The advisory committees for the purposes of this regulation shall be such advisory committees as are appointed for the purpose of advising the Secretary of State with respect to the internment and deportation of aliens, each of such committees being presided over by a person who holds or has held high judicial office.

In the application of this regulation to Scotland, references to the Secretary for Scotland shall be substituted for references to the Secretary of State.

Nothing in this regulation shall be construed to restrict or prejudice the application and effect of Regulation 14, or any power of internment of aliens who are subjects of any State at war with His Majesty.

*Power to require Census of Goods, &c.*

15. Where a competent naval or military authority makes an order for the purpose, all persons residing or owning or occupying lands, houses or other premises in such area as may be specified in the order, or such of those persons as may be so specified, shall, within such time as may be so specified, furnish a list of all goods, animals, and other commodities of any nature or description so specified, which may be in their custody or under their control within the specified area on the date on which the order is issued, stating their nature and quantity and the place in which they are severally situate, and giving any other details which may reasonably be required.

If any person fails to comply with any such order or attempts to evade this regulation by destroying, removing, or secreting any goods, animals or commodities to which an order issued under this regulation relates, he shall be guilty of an offence against these regulations.

PROVISIONS RESPECTING THE COLLECTION AND COMMUNICATION OF INFORMATION, ETC.

*Prohibition against obtaining and Communicating Naval and Military Information.*

18. No person shall without lawful authority collect, record, publish or communicate, or attempt to elicit, any information

with respect to the movement, numbers, description, condition, or disposition of any of the forces, ships, or war materials of His Majesty or any of His Majesty's allies, or with respect to the plans or conduct, or supposed plans or conduct, of any naval or military operations by any such forces or ships, or with respect to any works or measures undertaken for or connected with, or intended for the fortification or defence of any place, or any information of such a nature as is calculated to be or might be directly or indirectly useful to the enemy, and if any person contravenes the provisions of this regulation, or without lawful authority or excuse has in his possession any document containing any such information as aforesaid, he shall be guilty of an offence against these regulations.

*Prohibition against Photographing, &c. Naval and Military Works.*

19. No person shall without the permission of the competent naval or military authority make any photograph, sketch, plan, model, or other representation of any naval or military work, or of any dock or harbour work or, with intent to assist the enemy, of any other place or thing, and no person in the vicinity of any such work shall without lawful authority or excuse have in his possession any photographic or other apparatus or other material or thing suitable for use in making any such representation, and if any person contravenes the provisions of this regulation or without lawful authority or excuse has in his possession any representation of any such work of such a nature as is calculated to be or might be directly or indirectly useful to the enemy, he shall be guilty of an offence against these regulations.

For the purpose of this regulation the expression "harbour work" includes lights, buoys, beacons, marks, and other things for the purpose of facilitating navigation in or into a harbour.

*Prohibition against Tampering with Telegraphic Apparatus, &c.*

20. No person without lawful authority shall injure, or tamper or interfere with, any wire or other apparatus for transmitting telegraphic or telephonic messages, or any apparatus or contrivance intended for or capable of being used for a

signalling apparatus, either visual or otherwise, or prevent or obstruct or in any manner whatsoever interfere with the sending, conveyance or delivery of any communication<sup>a</sup> by means of telegraph, telephone, or otherwise, or be in possession of any apparatus intended for or capable of being used for tapping messages sent by wireless telegraphy or otherwise, and if any person contravenes the provisions of this regulation he shall be guilty of an offence against these regulations.

*Prohibition against Possession of Carrier Pigeons.*

21. No person shall keep or have in his possession or carry or liberate or bring into the United Kingdom any carrier or homing pigeons, unless he has obtained from the chief officer of police of the district a permit for the purpose, and if any person without lawful authority contravenes the provisions of this regulation he shall be guilty of an offence against these regulations, and the chief officer of police or any officer of customs and excise may, if he considers it necessary or expedient to do so, cause any pigeons kept or brought into the United Kingdom in contravention of this regulation to be liberated detained or destroyed, or, in the case of pigeons brought into the United Kingdom, to be immediately returned in the ship in which they came.

Any person found in possession of or found carrying or liberating any carrier pigeons shall, if so required by any naval or military officer or by any sailor or soldier engaged on sentry patrol or other similar duty, or by any officer of police, produce his permit, and if he fails to do so, may be arrested.

*Prohibition against Possession of Wireless Telegraphic Apparatus, &c.*

22. No person shall, without the written permission of the Postmaster-General make, buy, sell, or have in his possession or under his control any apparatus for the sending or receiving of messages by wireless telegraphy, or any apparatus intended to be used as a component part of such apparatus; and no person shall sell any such apparatus to any person who has not obtained such permission as aforesaid, and any person having in his possession or under his control any such apparatus, whether with or without the permission of the Postmaster-General, shall on demand deliver the apparatus to the Postmaster-General, or

as he may direct; and if any person contravenes the provisions of this regulation he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, par. 6.)

If the competent naval or military authority has reason to suspect that any person having in his possession any apparatus for sending or receiving messages by telegraphy, wireless telegraphy, telephony, or other electrical or mechanical means is using or about to use the same for any purpose prejudicial to the public safety or the defence of the realm, he may, by order, prohibit that person from having any such apparatus in his possession, and may take such steps as are necessary for enforcing the order, and if that person subsequently has in his possession any apparatus in contravention of the order he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, par. 6.)

For the purposes of this regulation any apparatus ordinarily used as a distinctive component part of apparatus for the sending or receiving of messages by wireless telegraphy shall be deemed to be intended to be so used unless the contrary is proved.

*Power to prevent Embarkation of Persons suspected of Communicating with the Enemy.*

23. Where the competent naval or military authority or any person duly authorised by him or an aliens officer has reason to suspect that any person who is about to embark on any ship, vessel, or aircraft is attempting to leave the United Kingdom for the purpose of communicating directly or indirectly with the enemy or with any subject of any sovereign or state at war with His Majesty, he may prevent the embarkation of that person.

Where the embarkation of any person has been so prevented the case shall be reported to a Secretary of State, and the Secretary of State may if he thinks fit by order prohibit that person at any time subsequently from leaving the United Kingdom so long as the order is in force, and if any person leaves the United Kingdom in contravention of such an order he shall be guilty of an offence against these regulations.

*Prohibition against Non-Postal Communications to or from United Kingdom.*

24. No person shall without lawful authority transmit

(otherwise than through the post) or convey, to or from the United Kingdom, or receive or have in his possession for such transmission or conveyance, any letter or any written message for any other person, and if any person contravenes this provision he shall be guilty of an offence against these regulations.

This regulation shall not apply to "shipowners' letters" as defined by section thirty of the Post Office Act, 1908, nor to any other class of letters or written messages that may be for the time being exempted by order of the Secretary of State.

*Prohibition against sending Letters, &c. from United Kingdom in Invisible Ink, &c.*

24A. If any person sends from the United Kingdom, whether by post or otherwise, any letter or other document containing any matter written in any medium which is not visible unless subjected to heat or some other treatment, he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, par. 7.)

*Prohibition against Signalling.*

25. No person shall without lawful authority be in possession of any searchlight, semaphore, or other apparatus intended for signalling, whether visual or otherwise, or display, erect, or use any signal, and if any person contravenes this provision he shall be guilty of an offence against these regulations; and the competent naval or military authority may require any flagstaff or other erection capable of being used as a means of signalling to be removed, and if the owner thereof fails to comply with the requirement, he shall be guilty of an offence against these regulations and the competent naval or military authority may cause the flagstaff or other erection to be removed.

*Prohibition against the use of Fireworks, &c.*

26. No person shall without the permission of the competent naval or military authority, or some person authorised by him, display any light or ignite or otherwise make use of any fireworks or other similar device or any fire in such a manner as could serve as a signal, guide, or landmark, and if he does so he shall be guilty of an offence against these regulations.

*Prohibition against the spread of Alarming Reports.*

27. No person shall by word of mouth or in writing or in any newspaper, periodical, book, circular, or other printed publication, spread false reports or make false statements or reports or statements likely to cause disaffection to His Majesty or to interfere with the success of His Majesty's forces by land or sea or to prejudice His Majesty's relations with foreign powers, or spread reports or make statements likely to prejudice the recruiting, training, discipline, or administration of any of His Majesty's forces, and if any person contravenes this provision he shall be guilty of an offence against these regulations.

PROVISIONS AGAINST INJURY TO RAILWAYS, MILITARY WORKS,  
ETC.

*Prohibition against Trespass on and Injury to Railways, &c.*

28. No person shall trespass on any railway, or loiter on under or near any tunnel bridge viaduct or culvert, or on or in any road path or other place, being a road path or place to which access has been forbidden by order of the competent naval or military authority, and if he does so shall be guilty of an offence against these regulations.

If any person does any injury to any railway, or is upon any railway, or on under or near any tunnel bridge viaduct or culvert, or loiters on or in any road or path or other place near a railway tunnel bridge viaduct or culvert, with intent to do injury thereto, he shall be guilty of an offence against these regulations.

*Prohibition against Approaching Defence Works, &c.*

29. The competent naval or military authority may by order prohibit any person from approaching within such distance as may be specified in the order of any camp, work of defence or other defended military work, or any work to which it is deemed necessary in the interest of the public safety or the defence of the Realm, to afford military protection, and if any person contravenes any such order he shall be guilty of an offence against these regulations.

No person shall trespass on any work of defence, arsenal, factory, dockyard, ship, telegraph, or signalling station or office, belonging to, or used for the service of, His Majesty, and if he



does so he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, Second Schedule.)

#### PROVISIONS AS TO ARMS AND EXPLOSIVES.

##### *Power to prohibit Sale of Firearms, &c.*

30. The competent naval or military authority may by order prohibit the manufacture, sale, transfer, or disposal of firearms, ammunition, or explosive substances or any class thereof, within the area specified in the order, either absolutely or except subject to such conditions as may be specified in the order, and if any person without a permit from the competent naval or military authority manufactures, sells, transfers, or disposes of or has in his possession for sale, transfer, or disposal within the area so specified any arms, ammunition, or explosive substance in contravention of the order or fails to comply with the conditions imposed by the order he shall be guilty of an offence against these regulations. (See *ibid.*)

##### *Prohibition of Importation of Arms, &c.*

31. No person shall bring into the United Kingdom any firearms, military arms, or ammunition or any explosive substance without a permit from the competent naval or military authority, and if he does so he shall be guilty of an offence against these regulations, and any person authorised for the purpose by the competent naval or military authority, and any police constable or officer of customs and excise, may examine search and investigate any ship or vessel for the purpose of the enforcement of this provision, and may seize any arms or ammunition or any explosive substance which are being or have been brought into the United Kingdom without such permit as aforesaid.

##### *Prohibition against Discharging Firearms.*

32. If any person by the discharge of firearms or otherwise endangers the safety of any member of any of His Majesty's forces he shall be guilty of an offence against these regulations.

##### *Prohibition against the Possession of Firearms, &c.*

33. No person, without the written permission of the competent naval or military authority, shall, on or in the vicinity of any railway, or in or in the vicinity of any dock harbour or

in or in the vicinity of any area which may be specified in an order made by the competent naval or military authority, be in possession of any explosive substance or any highly inflammable liquid, in quantities exceeding the immediate requirements of his business or occupation, or of any firearms or ammunition (except such shotguns, and ammunition therefor, as are ordinarily used for sporting purposes in the United Kingdom), and if any person contravenes this provision he shall be guilty of an offence against these regulations.

*Provisions as to the Storage of Petroleum, &c.*

34. Every place used for the storage of petroleum, turpentine, methylated spirit, wood naphtha, or any other highly inflammable liquid, exceeding in the aggregate one hundred gallons shall be surrounded by a retaining wall or embankment so designed and constructed as to form an enclosure which will prevent in any circumstances the escape of any part of the petroleum or other inflammable liquid.

This requirement shall not apply to any storage place sunk below the level of the ground so as to form a pit, nor to any storage place so situated that the overflow of the petroleum or liquid from the vessel or vessels in which it is contained could not in case of fire seriously endanger life or cause material damage to property.

If any person uses or permits to be used, for the storage of petroleum or other such inflammable liquid, any premises which do not comply with the requirements of this regulation he shall be guilty of an offence against these regulations.

For the purposes of this regulation "petroleum" means petroleum as defined in section three of the Petroleum Act, 1871, having a flashpoint below 150° F. (Abel).

Nothing in this regulation shall prejudice the effect of any requirements as to the storage of petroleum or other inflammable liquid lawfully imposed by any local authority, or the taking of any proceedings in respect of the violation of such requirements.

*Provisions as to Celluloid and Cinematograph Films.*

35. No person shall, in any prescribed area, have in his possession or in premises in his occupation or under his control any celluloid or any cinematograph film exceeding the prescribed

amount, unless he has obtained the prescribed permit and observes all the proscribed requirements, and if any person contravenes this provision he shall be guilty of a summary offence against these regulations.

Any police constable or any person authorised in writing by the Chief Officer of Police of the district, may enter, if need be by force, and search any premises in which he has reasonable cause to believe that celluloid or cinematograph film is kept or stored; and, if the prescribed permit has not been obtained or if any of the prescribed requirements are not complied with, may remove and destroy any such celluloid or film.

For the purpose of this regulation "celluloid" includes the substances known as celluloid or xylonite and other similar substances containing nitro-cellulose or other nitrated product, but does not include celluloid which has been subjected to any manufacturing process: and "cinematograph film" means any film which is intended for use in cinematograph or similar apparatus and contains nitro-cellulose or other nitrated product: and "prescribed" means prescribed by order made by a Secretary of State, or, in Scotland, by the Secretary for Scotland.

#### MISCELLANEOUS OFFENCES.

##### *Prohibition against supplying Intoxicants to Members of His Majesty's Forces.*

40. If any person with the intent of eliciting information for the purpose of communicating it to the enemy or for any purpose calculated to assist the enemy, gives or sells to a member of any of His Majesty's forces any intoxicant, or gives or sells to a member of any of His Majesty's forces any intoxicant when not on duty, with intent to make him drunk or less capable of the efficient discharge of his duties, or when on sentry or other duty, either with or without any such intent, he shall be guilty of an offence against these regulations.

For the purpose of this Regulation the expression "intoxicant" includes any intoxicant liquor, and any sedative, narcotic, or stimulant drug or preparation.

##### *Prohibition against Unauthorised Use of Naval and Military Uniforms, &c.*

41. If any unauthorised person wears any naval, military,

police, or other official uniform, or any badge supplied or authorised by the Admiralty or Army Council, or by any police or other official authority, or any uniform or badge so nearly resembling any such uniform or badge as aforesaid as to be calculated to deceive, or if any person without lawful authority supplies a naval or military uniform to any person not being a member of His Majesty's forces, or any such badge as aforesaid to any person not authorised to wear the same, he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, Second Schedule, and Order in Council, 13th April, 1915, par. 2.)

*Prohibition against causing Mutiny, &c.*

42. If any person attempts to cause mutiny, sedition, or disaffection among any of His Majesty's forces or among the civilian population he shall be guilty of an offence against these regulations.

*Obstruction of Officers, &c. in Performance of Duties.*

43. No person shall obstruct, knowingly mislead, or otherwise interfere with or impede, or withhold any information in his possession which he may reasonably be required to furnish from, any officer or other person who is carrying out the orders of the competent naval or military authority, or who is otherwise acting in accordance with his duty under these regulations, and if he does so shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, Second Schedule.)

*Falsification of Reports, &c.*

44. If any person, verbally or in writing, in any report, return, declaration, or application, or in any document signed by him or on his behalf of which it is his duty to ascertain the accuracy, knowingly makes or connives at the making of any false statement or any omission, with intent to mislead any officer, or other person acting under the orders of any officer, in the execution of his duties, he shall be guilty of an offence against these regulations.

*Forging and Personation.*

45. If any person forges alters or tampers with any naval military or police pass, permit or other document, or any pass-

port, or uses or has in his possession any such forged, altered or irregular naval, military, or police pass, permit or document, or passport, or personates any person to whom such a pass, permit or other document or passport, has been duly issued, or allows any other person to have possession of any pass, permit, or passport issued to him, or applies to any building, structure, premises or vehicle, any lights, letters or marks, for the time being used to indicate that buildings, structures, premises, or vehicles, to which they are applied are used for naval or military purposes, or any lights, letters or marks, so nearly resembling the same as to be calculated to deceive, he shall be guilty of an offence against these regulations. (See Order in Council, 23rd March, 1915, par. 8, and Second Schedule.)

*False Passports, &c.*

46. If any person is or has been found in possession of a false passport or, being a subject of a Sovereign or State at war with His Majesty, passes under an assumed name, he shall be guilty of an offence against these regulations. (See *ibid.*, Second Schedule.)

*Duty of Compliance with Orders.*

47. It shall be the duty of every person affected by any order issued by the competent naval or military authority or other person in pursuance of these regulations to comply with that order, and if he fails to do so he shall be guilty of an offence against these regulations.

*Aiding and Abetting.*

48. Any person who attempts to commit, or procures aids or abets, or does any act preparatory to, the commission of, any act prohibited by these regulations, or harbours any person whom he knows, or has reasonable grounds for supposing, to have acted in contravention of these regulations, shall be guilty of an offence against these regulations. .

*Duty of disclosing Contravention of Regulations.*

49. It shall be the duty of any person who knows or has good reason for believing that some other person is acting in contravention of any provisions of these regulations to inform the competent naval or military authority of the fact, and if he fails

to do so he shall be guilty of an offence against these regulations. (See *ibid.*, Second Schedule.)

*General Prohibition against Assisting Enemy.*

50. If any person does any act of such a nature as to be calculated to be prejudicial to the public safety or the defence of the Realm and not specifically provided for in the foregoing regulations, with the intention or for the purpose of assisting the enemy he shall be deemed to be guilty of an offence against these regulations.

POWERS OF SEARCH, ARREST, ETC.

*Power to Search Premises, &c.*

51. The competent naval or military authority, or any person duly authorised by him may, if he has reason to suspect that any house, building, land, vehicle, vessel, aircraft, or other premises or any things therein are being or have been constructed used or kept for any purpose or in any way prejudicial to the public safety or the defence of the Realm, or that an offence against these regulations is being or has been committed thereon or therein, enter, if need be by force, the house, building, land, vehicle, vessel, aircraft, or premises at any time of the day or night, and examine, search, and inspect the same or any part thereof, and may seize anything found therein which he has reason to suspect is being used or intended to be used for any such purpose as aforesaid, or is being kept or used in contravention of these regulations (including, where a report or statement in contravention of Regulation 27 has appeared in any newspaper or other printed publication, any type or other plant used or capable of being used for the printing or production of the newspaper or other publication), and the competent naval or military authority may order anything so seized to be destroyed or otherwise disposed of.

*Power to Stop and Search Vehicles.*

52. Any officer, or any soldier or sailor engaged on sentry patrol or other similar duty, and any police officer, may stop any vehicle travelling along any public highway, and, if he has reason to suspect that the vehicle is being used for any purpose or in any way prejudicial to the public safety or the defence of

the Realm, may search and seize the vehicle and seize anything found therein which he has reason to suspect is being used or intended to be used for any such purpose as aforesaid.

*Powers of Questioning.*

53. It shall be the duty of any person, if so required by an officer, or by a soldier or sailor engaged on sentry patrol or other similar duty, or by a police constable, to stop and answer to the best of his ability and knowledge any questions which may be reasonably addressed to him, and if he refuses or fails to do so he shall be guilty of an offence against these regulations.

The competent naval or military authority may by order require any person or persons of any class or description to furnish him, either verbally or in writing, with such information as may be specified in the order, and the order may require any person to attend at such time and such place as may be specified in the order for the purpose of furnishing such information, and if any person fails to comply with the order he shall be guilty of an offence against these regulations.

*Prevention of Conveyance of Letters, &c. out of or into the United Kingdom.*

54. Any person landing or embarking at any place in the United Kingdom, and any person who by reason of his occupation or habits has special opportunities of communicating with the crews and passengers of vessels (see Order in Council, 6th July, 1915, par. 4), shall, on being required to do so by the competent naval or military authority or any person authorised by him, or by an aliens officer or officer of police, make a declaration as to whether or not he is carrying or conveying any letters or other written messages intended to be transmitted by post or otherwise delivered, and, if so required, shall produce to the person making the requisition any such letters or messages; and the competent naval or military authority or person authorised by him or aliens or police officer may search any such person and any baggage with a view to ascertaining whether such person or the person to whom the baggage belongs is carrying or conveying any such letters or messages.

The competent naval or military authority or persons authorised by him or aliens or police officer may examine any letters

or other messages so produced to him or found on such search, and may transmit them to an officer appointed to censor postal correspondence. (See Order in Council, 23rd March, 1915, Second Schedule.)

Any person who knowingly makes any false declaration under this regulation, or on being required to produce any such letters or messages as aforesaid refuses or neglects to do so, shall be guilty of an offence against these regulations.

### *Powers of Arrest.*

55. Any person authorised for the purpose by the competent naval or military authority, or any police constable or officer of customs and excise or aliens officer, may arrest without warrant any person whose behaviour is of such a nature as to give reasonable grounds for suspecting that he has acted or is acting or is about to act in a manner prejudicial to the public safety or the defence of the Realm, or upon whom may be found any article, book, letter, or other document, the possession of which gives grounds for such a suspicion, or who is suspected of having committed an offence against these regulations.

If any person assists or connives at the escape of any person who may be in custody under this regulation, or knowingly harbours or assists any person who has so escaped, he shall be guilty of an offence against these regulations.

## TRIAL AND PUNISHMENT OF OFFENCES.

### *Trial of Offences.*

56. -(1) Except as otherwise provided by this regulation, a person alleged to be guilty of an offence against these regulations may be tried either by court-martial, or by a civil court with a jury, or by a court of summary jurisdiction.

(2) Where a person is alleged to be guilty of an offence which is by these regulations declared to be a summary offence he may be tried by a court of summary jurisdiction and not otherwise.

(3) Where a person is alleged to be guilty of an offence other than an offence declared by these regulations to be a summary offence, the case shall be referred to the competent naval or military authority who shall forthwith investigate the case and determine whether or not the case is to be proceeded with, and if it is to be proceeded with, whether or not it is an offence of



such & minor character as can adequately be dealt with by a court of summary jurisdiction.

(4) If it is determined that the case is not to be proceeded with, the alleged offender, if in custody, shall (unless he is detained on some other charge forthwith be released.

(5) If it is determined that the case is to be proceeded with, but that the offence is of such a minor character as aforesaid, the offender may be tried by a court of summary jurisdiction and not otherwise.

(6) If it is determined that the case is to be proceeded with and that the offence is not of such a minor character as aforesaid, then—

(a) if the offender is a British subject and is not a person subject to the Naval Discipline Act or to military law, and he claims, in the manner hereinafter provided, to be tried by a civil court with a jury instead of being tried by a court-martial, the case shall be handed over, for the purposes of trial, to the civil authority;

(b) if the offender, being a British subject, does not make any such claim, or if the offender is not a British subject or is a person subject to the Naval Discipline Act or to military law, the competent naval or military authority shall, subject to any general or special instructions given by the Admiralty or Army Council, order the case to be tried by court-martial, or, where in pursuance of such instructions the case is not to be tried by court-martial, shall order it to be handed over, for purposes of trial, to the civil authority.

(7) Any case which is handed over to the civil authority may be tried by a civil court with a jury:

Provided that if on further investigation it appears to the prosecution that a case so handed over to the civil authority is of such a character as can be adequately dealt with by a court of summary jurisdiction it may, if the Admiralty or Army Council consent, or in Scotland if the Lord Advocate after consultation with the Admiralty or Army Council so directs, be so dealt with.

(8) For the purpose of enabling such a claim as aforesaid to be made, the competent naval or military authority shall, as

soon as practicable after his arrest, give the alleged offender notice in writing, in the form set out in Part I. of the Schedule to these regulations, of the general nature of the charge and of his right (if he is a British subject and not a person subject to the Naval Discipline Act or to military law) to claim to be tried by a civil court with a jury instead of being tried by court-martial:

Provided that it shall not be necessary to give such a notice if the offence is an offence which is by these regulations declared to be a summary offence or it has been determined that the offence is an offence of such a minor character as aforesaid.

(9) A person to whom such a notice has been given may if he is a British subject and not a person subject to the Naval Discipline Act or to military law, within six clear days from the date when it was so given to him claim to be tried by a civil court with a jury instead of being tried by court-martial by giving notice in writing to that effect to the competent naval or military authority in the form set out in Part II. of the Schedule to these regulations.

(10) If the alleged offender is in custody he shall, if he is to be tried by court-martial, be kept in or handed over to military custody, and, if he is to be tried otherwise than by court-martial, be kept in or handed over to civil custody, and if he is to be tried by a civil court with a jury, may, in England and Ireland without any warrant from a justice of the peace, be detained in any of His Majesty's prisons, as a person committed for trial for felony, until thence delivered in due course of law, and an order to that effect in the form set out in Part III. of the Schedule to these regulations shall, if application is made for the purpose, be made by a competent naval or military authority.

(11) In England and Ireland offences against these regulations shall not be prosecuted before a civil court with a jury except by or with the consent of the Attorney-General for England or Ireland, as the case may be, nor before a court of summary jurisdiction by any person, other than the competent naval or military authority or a person authorised by him, or an officer of police, an officer of customs and excise, or an aliens officer, except with the consent of the Attorney-General for England or Ireland, as the case may be.

(12) For the purposes of this regulation the expression "British subject" includes a woman who has married an alien but who before marriage was a British subject.

(See Order in Council, 23rd March, 1915, par. 9; Order in Council, 13th April, 1915, par. 3.)

### *Trial and Punishment by Civil Courts.*

56A. Any offence tried by a civil court with a jury shall be deemed to be a felony, and on conviction of the offender he shall be liable to such punishment as might have been inflicted under Regulation 57 if the case had been tried by a general court-martial.

Where sentence of death is passed by such a civil court, the court may order the sentence to be executed in any manner in which a court-martial may order a sentence of death to be executed. If the manner in which the sentence is to be executed is by shooting, the court may direct that the offender be handed over to the military authority, and in such case the sentence shall be executed as if it had been passed by a court-martial, but in England shall not be carried into execution until after such time as is allowed by the Criminal Appeal Act, 1907, for giving notice of appeal or notice of application for leave to appeal under that Act, nor pending such appeal or application; or in Scotland until after such date as may be specified in the sentence.

In England and Ireland a court of quarter sessions shall not have jurisdiction to try such a felony.

In Scotland the court having jurisdiction to try such a felony shall be the High Court of Justiciary.

For the purpose of the trial of a person for such a felony, the offence shall be deemed to have been committed either at the place at which the same actually was committed, or in any place in the United Kingdom in which the offender may be found, or to which he may be brought for the purpose of speedy trial. (See Order in Council, 23rd March, 1915, par. 10.)

### *Trial and Punishment by Courts-martial.*

57. A person found guilty of an offence against these regulations by a court-martial shall be liable to be sentenced to penal servitude for life or any less punishment, or if the court finds

that the offence was committed with the intention of assisting the enemy to suffer death or any less punishment, and the court may in addition to any other sentence imposed order that any goods in respect of which the offence has been committed be forfeited:

Provided that a sentence of detention in detention barracks shall not be awarded for an offence under these regulations and that no sentence exceeding six months' imprisonment with hard labour shall be imposed in respect of any contravention of regulations 12, 13, 21, 22, 24, 25, 26, 27, 28 (first paragraph), 35, 53, 60, and 61 if the offender proves that he acted without any intention of assisting the enemy or, in the case of regulation 27, of causing disaffection or alarm or prejudicing the recruiting, training, discipline, and administration of any force.

A court-martial having jurisdiction to try offences under these regulations shall be a general or district court-martial convened by an officer authorised to convene such description of court-martial within the limits of whose command the offender may for the time being be; but nothing in this regulation shall be construed as authorising a district court-martial to impose a sentence of penal servitude.

Any person tried by court-martial under these regulations shall, for the purposes of the provisions of the Army Act relating to offences, be treated as if he belonged to the unit in whose charge he may be; but no such person shall be liable to summary punishment by a commanding officer. (See Order in Council, 23rd March, 1915, par. 11.)

#### *Trial and Punishment by a Court of Summary Jurisdiction.*

58. A person convicted of an offence against these regulations by a court of summary jurisdiction shall be liable to be sentenced to imprisonment with or without hard labour for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such imprisonment and fine, and the court may, in addition to any other sentence which may be imposed, order that any goods in respect of which the offence has been committed shall be forfeited.

For the purpose of the trial of a person for such an offence the offence shall be deemed to have been committed either at the place in which the same actually was committed, or at any

place in which the offender may be, and the court in Scotland shall be the sheriff court.

Section seventeen of the Summary Jurisdiction Act, 1879, shall not apply to the charge of offences against these regulations.

Any person aggrieved by a conviction of a court of summary jurisdiction under these regulations may appeal in England to a court of quarter sessions, and in Scotland under and in terms of the Summary Jurisdiction (Scotland) Acts, and in Ireland in manner provided by the Summary Jurisdiction (Ireland) Acts.

*Trial by Courts-martial on Suspension of 5 Geo. 5, c. 34.*

58A. Whenever His Majesty by Proclamation suspends the operation of section one of the Defence of the Realm (Amendment) Act, 1915, either generally or as respects any specified area, then, as respects all offences committed against these regulations, or (as the case may be), all such offences committed within the specified area, so much of Regulation 56 as relates to trial by civil court with a jury, and in particular paragraphs (6) to (10) thereof, shall, so long as the Proclamation remains in force, cease to have effect, without prejudice however to any proceedings under the said section which may be pending at the date of the issue of such Proclamation, and in lieu of the said paragraphs, the following provision shall have effect:—

“ If it is determined that the case is to be proceeded with and that the offence is not of such a minor character as aforesaid, the case may be tried by court martial, and notwithstanding anything in Regulation 57 a field general court martial convened by an officer authorized to convene such a court martial shall have the like jurisdiction to deal with the case as in the last-mentioned Regulation is conferred on a general court martial.” (See Order in Council, 23rd March, 1915, par. 12.)

#### SUPPLEMENTAL.

##### *Saving of other Powers.*

59. The powers conferred by these regulations are in addition to and not in derogation of any powers exercisable by members

of His Majesty's naval and military forces and other persons to take such steps as may be necessary for securing the public safety and the defence of the Realm, and nothing in these regulations shall affect the liability of any person to trial and punishment for any offence or war crime otherwise than in accordance with these regulations.

#### *Notices.*

60. The competent naval or military authority, or any other person by whom an order is made in pursuance of these regulations, shall publish notice of the order in such manner as he may consider best adapted for informing persons affected by the order, and no person shall without lawful authority deface or otherwise tamper with any notice posted up in pursuance of these regulations, and if he does so shall be guilty of an offence against these regulations.

#### *Provisions as to Permits.*

61. Any person claiming to act under any permit or permission granted under or for the purposes of these regulations shall, if at any time he is required to do so by the competent naval or military authority or any person authorised by him, or by any naval or military officer, or by any sailor or soldier engaged on sentry patrol or other similar duty, or by any officer of customs and excise, officer of police or aliens' officer, produce the permit or permission for inspection, and if he refuses to do so he shall be guilty of an offence against these regulations.

Any permit or permission granted under or for the purposes of any provision of these regulations may at any time be revoked.

#### *Interpretation.*

62. The Admiralty or Army Council may appoint any commissioned officer of His Majesty's Naval or Military Forces, not below the rank of lieutenant-commander in the Navy or field officer in the Army, to be a competent naval or military authority and may authorise any competent naval or military authority thus appointed to delegate, either unconditionally or subject to such conditions as he thinks fit, all or any of his powers under these regulations to any officer qualified to be appointed a competent naval or military authority, and an

officer<sup>f</sup> so appointed, or to whom the powers of the competent naval or military authority are so delegated, is in these regulations referred to as a competent naval or military authority.

For the purposes of these regulations the expression "aliens officer" shall have the same meaning as in the Aliens Restriction (Consolidation) Order, 1914.

For the purposes of these regulations, the expression "war material" includes arms, ammunition, warlike stores and equipment, and everything required for or in connection with the production thereof. (Sec Order in Council, 23rd March, par. 13.)

*Short Title, Construction, and Revocation.*

63. These regulations may be cited as the Defence of the Realm (Consolidation) Regulations, 1914.

The Interpretation Act, 1889, applies for the purpose of the interpretation of these regulations in like manner as it applies for the purpose of the interpretation of an Act of Parliament.

The said Orders in Council of the 12th of August, the 1st and 17th of September, and the 14th of October, 1914, are hereby revoked:

Provided that the revocation of any such Order shall not—

- (a) affect the previous operation of any Order so revoked or anything duly done or suffered under any Order so revoked; or
- (b) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any Order so revoked; or
- (c) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Order so revoked; or
- (d) affect any proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any permission or direction given, or order, requirement, or appointment made, authority issued or other action taken under any Order so revoked shall be deemed to have been given, made, issued, or taken under the corresponding provision of this Order.

## APPENDIX C.

## TRADING WITH THE ENEMY.

## TRADING WITH THE ENEMY ACT, 1914.

(4 &amp; 5 GEO. 5, c. 87.)

*An Act to make provision with respect to penalties for Trading with the Enemy, and other purposes connected therewith.*

[18th September, 1914.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Penalties for Trading with Enemy.*

1.—(1) Any person who during the present war trades or has, since the fourth day of August nineteen hundred and fourteen, traded with the enemy within the meaning of this Act shall be guilty of a misdemeanour, and shall—

- (a) on conviction under the Summary Jurisdiction Acts, be liable to imprisonment with or without hard labour for a term not exceeding twelve months, or to a fine not exceeding five hundred pounds, or to both such imprisonment and fine; or
  - (b) on conviction on indictment, be liable to penal servitude for a term not exceeding seven or less than three years or to imprisonment with or without hard labour for a term not exceeding two years, or to a fine, or to
    - both such penal servitude or imprisonment and fine;
- and the Court may in any case order that any goods or money, in respect of which the offence has been committed, be forfeited.



(2) For the purposes of this Act a person shall be deemed to have traded with the enemy if he has entered into any transaction or done any act which was, at the time of such transaction or act, prohibited by or under any proclamation issued by His Majesty dealing with trading with the enemy for the time being in force, or which at common law or by statute constitutes an offence of trading with the enemy:

Provided that any transaction or act permitted by or under any such proclamation shall not be deemed to be trading with the enemy.

(3) Where a company has entered into a transaction or has done any act which is an offence under this section, every director, manager, secretary, or other officer of the company who is knowingly a party to the transaction or act shall also be deemed guilty of the offence.

(4) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Attorney-General:

Provided that the person charged with such an offence may be arrested and a warrant for his arrest may be issued and executed, and such person may be remanded in custody or on bail notwithstanding that the consent of the Attorney-General to the institution of the prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(5) Where an act constitutes an offence both under this Act and under any other Act, or both under this Act and at common law, the offender shall be liable to be prosecuted and punished under either this Act or such other Act, or under this Act or at common law, but shall not be liable to be punished twice for the same offence.

#### *Power to Inspect Books and Documents.*

2.—(1) If a justice of the peace is satisfied, on information on oath laid on behalf of a Secretary of State or the Board of Trade, that there is reasonable ground for suspecting that an offence under this Act has been or is about to be committed by any person, firm, or company, he may issue a warrant authorising any person appointed by a Secretary of State or the

Board of Trade and named in the warrant to inspect all books or documents belonging to or under the control of that person, firm, or company, and to require any person able to give any information with respect to the business or trade of that person, firm, or company to give that information, and if accompanied by a constable to enter and search any premises used in connection with the business or trade, and to seize any such books or documents as aforesaid:

Provided that when it appears to a Secretary of State or the Board of Trade that the case is one of great emergency and that in the interests of the State immediate action is necessary, a Secretary of State or the Board of Trade may, by written order, give to a person appointed by him or them the like authority as may be given by a warrant of a justice under this subsection.

(2) Where it appears to the Board of Trade:

(a) in the case of a firm, that one of the partners in the firm was immediately before or at any time since the commencement of the present war a subject of, or resident or carrying on business in, a state for the time being at war with His Majesty; or

(b) in the case of a company, that one-third or more of the issued share capital or of the directorate of the company immediately before or at any time since the commencement of the present war was held by or on behalf of or consisted of persons who were subjects of, or resident or carrying on business in, a state for the time being at war with His Majesty; or

(c) in the case of a person, firm or company, that the person was or is, or the firm or company were or are, acting as agent for any person, firm, or company trading or carrying on business in a state for the time being at war with His Majesty;

the Board of Trade may, if they think it expedient for the purpose of satisfying themselves that the person, firm or company are not trading with the enemy, by written order, give to a person appointed by them, without any warrant from a justice, authority to inspect all books and documents belonging to or under the control of the person, firm or company, and to require any person able to give information with respect to the business

or trade of that person, firm or company, to give that information.

For the purposes of this subsection, any person authorised in that behalf by the Board of Trade may inspect the register of members of a company at any time, and any shares in a company for which share warrants to bearer have been issued shall not be reckoned as part of the issued share capital of the company.

(3) If any person having the custody of any book or document which a person is authorised to inspect under this section refuses or wilfully neglects to produce it for inspection, or if any person who is able to give any information which may be required to be given under this section refuses or wilfully neglects when required to give that information, that person shall on conviction under the Summary Jurisdiction Acts be liable to imprisonment with or without hard labour for a term not exceeding six months, or to a fine not exceeding fifty pounds, or to both such imprisonment and fine.

*Power of Board of Trade to apply for Controller in certain cases.*

3. Where it appears to the Board of Trade in reference to any firm or company---

(a) that an offence under this Act has been or is likely to be committed in connexion with the trade or business thereof; or

(b) that the control or management thereof has been or is likely to be so affected by the state of war as to prejudice the effective continuance of its trade or business and that it is in the public interest that the trade or business should continue to be carried on;

the Board of Trade may apply to the High Court for the appointment of a controller of the firm or company, and the High Court shall have power to appoint such a controller, for such time and subject to such conditions and with such powers as the court thinks fit, and the powers so conferred shall be either those of a receiver and manager or those powers subject to such modifications, restrictions or extensions as the court thinks

fit (including, if the court considers it necessary or expedient for enabling the controller to borrow money, power, after a special application to the court for that purpose, to create charges on the property of the firm or company in priority to existing charges).

The court shall have power to direct how and by whom the costs of any proceedings under this section, and the remuneration, charges, and expenses of the controller, shall be borne, and shall have power, if it thinks fit, to charge such costs, charges, and expenses on the property of the firm or company in such order of priority, in relation to any existing charges thereon, as it thinks fit.

*Short Title and Construction.*

4.—(1) This Act may be cited as the Trading with the Enemy Act, 1914.

(2) In this Act the expression "Attorney-General" means the Attorney or Solicitor General for England, and as respects Scotland means the Lord Advocate, and as respects Ireland means the Attorney or Solicitor General for Ireland.

(3) In the application of this Act to Scotland the Secretary for Scotland shall be substituted for a Secretary of State, and the Court of Session shall be substituted for the High Court; the court exercising summary jurisdiction shall be the sheriff court; references to a justice of the peace shall include references to the sheriff and to a burgh magistrate; and references to a receiver and manager shall be construed as references to a judicial factor.

(4) In the application of this Act to Ireland, the Lord Lieutenant shall be substituted for a Secretary of State.

(5) Anything authorised under this Act to be done by the Board of Trade may be done by the President or a Secretary or Assistant Secretary of the Board, or any person authorised in that behalf by the President of the Board.

TRADING WITH THE ENEMY AMENDMENT ACT,  
1914.

(5 GEO. 5, c. 12.)

*An Act to amend the Trading with the Enemy Act, 1914, and  
for purposes connected therewith.*

[27th November, 1914.]

WHEREAS it is expedient to make further provision for preventing the payment of money to persons and bodies of persons resident or carrying on business in any country with which His Majesty is for the time being at war (which persons and bodies of persons are hereinafter referred to as "enemies"), in contravention of the law relating to trading with the enemy, and for preserving, with a view to arrangements to be made at the conclusion of peace, such money and certain other property belonging to enemies; and to make other provisions for preventing trading with the enemy:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Constitution of Office of Custodian of Enemy Property.*

1.—(1) The Board of Trade shall appoint a person to act as Custodian of enemy property (hereinafter referred to as "the Custodian") for England and Wales, for Scotland, and for Ireland respectively, for the purpose of receiving, holding, preserving, and dealing with such property as may be paid to or vested in him in pursuance of this Act, and if any question arises as to which Custodian any money is to be paid to under this Act, the question shall be determined by the Board of Trade.

(2) The Public Trustee shall be appointed to be the Custodian for England and Wales, and shall, in relation to all property held by him in his capacity of Custodian, have the like status, and his accounts shall be subject to the like audit, as if

the same were held by him in his capacity of Public Trustee, and the Public Trustee Act, 1906, shall apply accordingly.

(3) The Custodian for Scotland and Ireland respectively shall have such powers and duties with respect to the property aforesaid as may be prescribed by regulations made by the Board of Trade with the approval of the Treasury.

(4) The Custodian may place on deposit with any bank, or invest in any securities, approved by the Treasury, any moneys paid to him under this Act, or received by him from property vested in him under this Act, and any interest or dividends received on account of such deposits or investments shall be dealt with in such manner as the Treasury may direct:

Provided that the Custodian for any part of the United Kingdom shall, if so directed by the Treasury, transfer any money held by him under this Act to the Custodian of another part thereof.

*Payment of Dividends, &c. Payable to Enemy.*

2.—(1) Any sum which, had a state of war not existed, would have been payable and paid to or for the benefit of an enemy, by way of dividends, interest or share of profits, shall be paid by the person, firm or company by whom it would have been payable to the Custodian to hold subject to the provisions of this Act and any Order in Council made thereunder, and the payment shall be accompanied by such particulars as the Board of Trade may prescribe, or as the Custodian, if so authorised by the Board of Trade may require.

Any payment required to be made under this subsection to the Custodian shall be made—

- (a) within fourteen days after the passing of this Act, if the sum, had a state of war not existed, would have been paid before the passing of this Act; and
- (b) in any other case within fourteen days after it would have been paid.

(2) Where before the passing of this Act any such sum has been paid into any account with a bank, or has been paid to any other person in trust for an enemy, the person, firm or company by whom the payment was made shall, within fourteen days

after the passing of this Act, by notice in writing, require the bank or person to pay the sum over to the Custodian to hold as aforesaid, and shall furnish the Custodian with such particulars as aforesaid. The bank or other person shall, within one week after the receipt of the notice, comply with the requirement and shall be exempt from all liability for having done so.

(3) If any person fails to make or require the making of any payment or to furnish the prescribed particulars within the time mentioned in this section, he shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such fine and imprisonment, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and every director, manager, secretary or officer of a company, or any other person who is knowingly a party to the default shall, on the like conviction, be liable to the like penalty.

(4) If, in the case of any person, firm or company whose books and documents are liable to inspection under subsection (2) of section two of the Trading with the Enemy Act, 1914 (hereinafter referred to as the principal Act), any question arises as to the amount which would have been so payable and paid as aforesaid, the question shall be determined by the person who may have been or who may be appointed to inspect the books and documents of the person, firm or company, or, on appeal, by the Board of Trade, and if, in the course of determining the question, it appears to the inspector or the Board of Trade that the person, firm or company has not distributed as dividends, interest or profits the whole of the amount properly available for that purpose, the inspector or Board may ascertain what amount was so available and require the whole of such amount to be so distributed, and, in the case of a company, if such dividends have not been declared, the inspector or the Board may himself or themselves declare the appropriate dividends, and every such declaration shall be as effective as a declaration to the like effect duly made in accordance with the constitution of the company:

Provided that where a controller has been appointed under section three of the principal Act this subsection shall apply as

if for references to the inspector there were substituted references to the controller.

(5) For the purposes of this Act the expression "dividends, interest or share of profits" means any dividends, bonus or interest in respect of any shares, stock, debentures, debenture stock or other obligations of any company, any interest in respect of any loan to a firm or person carrying on business for the purposes of that business, and any profits or share of profits of such a business, and, where a person is carrying on any business on behalf of an enemy, any sum which, had a state of war not existed, would have been transmissible by a person to the enemy by way of profits from that business shall be deemed to be a sum which would have been payable and paid to that enemy (See 5 & 6 Geo. 5, c. 79, s. 1.)

*Duty of Trustees for Enemies to Notify the Custodian.*

3.--(1) Any person who holds or manages for or on behalf of an enemy any property, real or personal (including any rights, whether legal or equitable, in or arising out of property, real or personal), shall, within one month after the passing of this Act or if the property comes into his possession or under his control after the passing of this Act, then within one month after the time when it comes into his possession or under his control, by notice in writing communicate the fact to the Custodian, and shall furnish the Custodian with such particulars in relation thereto as the Custodian may require, and if any person fails to do so he shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding one hundred pounds or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such a fine and imprisonment, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues.

(2) Every company incorporated in the United Kingdom and every company which, though not incorporated in the United Kingdom, has a share transfer or share registration office in the United Kingdom shall, within one month after the passing of this Act, by notice in writing communicate to the Custodian full particulars of all shares, stock, debentures, and debenture stock and other obligations of the company which are held by



or for the benefit of an enemy; and every partner of every firm, one or more partners of which on the commencement of the war became enemies or to which money had been lent for the purpose of the business of the firm by a person who so became an enemy, shall, within one month after the commencement of this Act, by notice in writing communicate to the Custodian full particulars as to any share of profits and interest due to such enemies or enemy, and, if any company or partner fails to comply with the provisions of this subsection, the company shall, on conviction under the Summary Jurisdiction Acts, be liable to a fine not exceeding one hundred pounds, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues, and the partner and every director, manager, secretary or officer of the company who is knowingly a party to the default shall on the like conviction be liable to the like fine, or to imprisonment, with or without hard labour, for a term not exceeding six months, or to both such imprisonment and fine. (See 5 & 6 Geo. 5, c. 79, s. 2.)

*Power to Vest Enemy Property in Custodian.*

4.—(1) The High Court or a judge thereof may, on the application of any person who appears to the court to be a creditor of an enemy or entitled to recover damages against an enemy, or to be interested in any property, real or personal (including any rights, whether legal or equitable, in or arising out of property real or personal), belonging to or held or managed for or on behalf of an enemy, or on the application of the Custodian or any Government Department, by order vest in the Custodian any such real or personal property as aforesaid, if the court or the judge is satisfied that such vesting is expedient for the purposes of this Act, and may by the order confer on the Custodian such powers of selling, managing and otherwise dealing with the property as to the court or judge may seem proper.

(2) The court or judge before making any order under this section may direct that such notices (if any), whether by way of advertisement or otherwise, shall be given as the court or judge may think fit.

(3) A vesting order under this section as respects property of

any description shall be of the like purport and effect as a vesting order as respects property of the same description made under the Trustee Act, 1893.

*Holding and Dealing with Property by Custodian.*

5.—(1) The Custodian shall, except so far as the Board of Trade or the High Court or a judge thereof may otherwise direct, and subject to the provisions of the next succeeding subsection, hold any money paid to and any property vested in him under this Act until the termination of the present war, and shall thereafter deal with the same in such manner as His Majesty may by Order in Council direct.

(2) The property held by the Custodian under this Act shall not be liable to be attached or otherwise taken in execution, but the Custodian may, if so authorised by an order of the High Court or a judge by whose order any property belonging to an enemy was vested in the Custodian under this Act, or of any court in which judgment has been recovered against an enemy, pay out of the property paid to him in respect of that enemy the whole or any part of any debts due by that enemy and specified in the order:

Provided that before paying any such debt the Custodian shall take into consideration the sufficiency of the property paid to or vested in him in respect of the enemy in question to satisfy that debt and any other claims against that enemy of which notice verified by statutory declaration may have been served upon him.

(3) The receipt of the Custodian or any person duly authorised to sign receipts on his behalf for any sum paid to him under this Act shall be a good discharge to the person paying the same as against the person or body of persons in respect of whom the sum was paid to the Custodian.

(4) The Custodian shall keep a register of all property held by him under this Act which register shall be open to public inspection at all reasonable times free of charge.

(5) In England and Ireland the Lord Chancellor and the Lord Chancellor for Ireland may by rules, and in Scotland the Court of Session may by act of sederunt, make provision for

the practice and procedure to be adopted for the purposes of this and the last preceding section.

*Invalidity of Assignment of Debts, &c. by Enemies.*

6.—(1) No person shall by virtue of any assignment of any debt or other chose in action, or delivery of any coupon or other security transferable by delivery, or transfer of any other obligation, made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against the person liable to pay, discharge or satisfy the debt, chose in action, security or obligation, unless he proves that the assignment, delivery, or transfer was made by leave of the Board of Trade or was made before the commencement of the present war, and any person who knowingly pays, discharges or satisfies any debt, or chose in action, to which this subsection applies, shall be deemed to be guilty of the offence of trading with the enemy within the meaning of the principal Act:

Provided that this subsection shall not apply where the person to whom the assignment, delivery or transfer was made, or some person deriving title under him, proves that the transfer, delivery or assignment or some subsequent transfer, delivery or assignment, was made before the nineteenth day of November, nineteen hundred and fourteen, in good faith and for valuable consideration nor shall this subsection apply to any bill of exchange or promissory note.

(2) No person shall by virtue of any transfer of a bill of exchange or promissory note made or to be made in his favour by or on behalf of an enemy, whether for valuable consideration or otherwise, have any rights or remedies against any party to the instrument unless he proves that the transfer was made before the commencement of the present war, and any party to the instrument who knowingly discharges the instrument shall be deemed to be guilty of trading with the enemy within the meaning of the principal Act:

Provided that this subsection shall not apply where the transferee, or some subsequent holder of the instrument, proves that the transfer, or some subsequent transfer, of the instrument was

made before the nineteenth day of November, nineteen hundred and fourteen, in good faith and for valuable consideration.

(3) Nothing in this section shall be construed as validating any assignment, delivery or transfer which would be invalid apart from this section or as applying to securities within the meaning of section eight of this Act. (Sec 5 & 6 Geo. 5, c. 79, s. 3.)

*Right to Pay into Court Sums Due on Coupons suspected of being Enemy Property.*

7. Where during the continuance of the present war any coupon or other security transferable by delivery is presented for payment to any company, municipal authority, or other body or person, and the company, body or person has reason to suspect that it is so presented on behalf or for the benefit of an enemy, or that since the commencement of the present war it has been held by or for the benefit of an enemy, the company, body or person may pay the sum due in respect thereof into the High Court, and the same shall, subject to rules of court, be dealt with according to the orders of the court, and such a payment shall for all purposes be a good discharge to the company, body or person. (Sec 5 & 6 Geo. 5, c. 79, s. 3.)

*Invalidity of Transfer of Shares in Company, &c.*

8. -(1) No transfer made after the passing of this Act by or on behalf of an enemy of any securities shall confer on the transferee any rights or remedies in respect thereof and no company or municipal authority or other body by whom the securities were issued or are managed shall, except as hereinafter appears, take any cognizance of or otherwise act upon any notice of such a transfer:

(2) No entry shall hereafter, during the continuance of the present war, be made in any register or branch register or other book kept in the United Kingdom of any transfer of any securities therein registered, inscribed or standing in the name of an enemy, except by leave of a court of competent jurisdiction or of the Board of Trade. •

(3) No share warrants payable to bearer shall be issued during the continuance of the present war in respect of any shares or stock registered in the name of any enemy.

(4) If any company or any body contravenes the provisions of this section the company or body shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding one hundred pounds, and every director, manager, secretary or other officer of the company or body who is knowingly a party to the default, shall be liable on the like conviction to a like fine or to imprisonment, with or without hard labour, for a term not exceeding six months.

(5) For the purposes of this section the expression "securities" means any annuities, stock, shares, debentures, or debenture stock issued by or on behalf of the Government or by any municipal or other authority, or by any company or by any other body which are registered or inscribed in any register, branch register, or other book kept in the United Kingdom. (See 5 & 6 Geo. 5, c. 79, s. 3.)

*Condition as to the Incorporation of New Companies.*

9.—(1) During the continuance of the present war a certificate of incorporation of a company shall not be given by the Registrar of Joint Stock Companies until there has been filed with him either—

(a) a statutory declaration by a solicitor of the Supreme Court, or, in Scotland, by an enrolled law agent, engaged in the formation of the company, that the company is not formed for the purpose or with the intention of acquiring the whole or any part of the undertaking of a person, firm or company the books and documents of which are liable to inspection under subsection (2) of section two of the principal Act; or

(b) a licence from the Board of Trade authorising the acquisition by the company of such an undertaking.

(2) Where such a statutory declaration has been filed it shall not be lawful for the company, during the continuance of the present war, without the licence of the Board of Trade, to acquire the whole or any part of any such undertaking, and if it does so the company shall, without prejudice to any other liability, be liable on conviction under the Summary Jurisdic-

tion Acts to a fine not exceeding one hundred pounds, and every director, manager, secretary, or other officer of the company who is knowingly a party to the default shall on the like conviction be liable to the like fine or to imprisonment, with or without hard labour, for a term not exceeding six months.

*Additional Provisions as to Trading with Enemy.*

10.—(1) Section one of the principal Act shall apply to a person who during the present war attempts, or directly or indirectly offers or proposes or agrees, or has since the fourth day of August nineteen hundred and fourteen attempted or directly or indirectly offered or proposed or agreed, to trade with the enemy within the meaning of that Act in like manner as it applies to a person who so trades or has so traded.

(2) If any person without lawful authority in anywise aids or abets any other person, whether or not such other person is in the United Kingdom, to enter into, negotiate, or complete any transaction or do any act which, if effected or done in the United Kingdom by such other person, would constitute an offence of trading with the enemy within the meaning of the principal Act, he shall be deemed to be guilty of such an offence.

(3) If any person without lawful authority deals, or attempts, or offers, proposes or agrees, whether directly or indirectly, to deal with any money or security for money or other property which is in his hands or over which he has any claim or control for the purpose of enabling an enemy to obtain money or credit thereon or thereby shall be deemed to be guilty of the offence of trading with the enemy within the meaning of the principal Act.

*Additional Ground for Appointment of Controller.*

11.—(1) In addition to the grounds on which an application can be made to the court by the Board of Trade to appoint a controller under section three of the principal Act, such an application may be made in any case in which the Board think it is expedient in the public interest that a controller should be appointed owing to circumstances or considerations arising out of the present war, and that section shall be construed accordingly.

(2)\* Section three of the principal Act, as amended by this section, shall extend so as to enable a controller to be appointed of a business carried on by a person in like manner as it applies to the appointment of a controller of a business carried on by a firm.

*Amendment of S. 2 of Principal Act.*

12.—(1) Where, on the report of an inspector appointed to inspect the books and documents of a person, firm, or company under section two of the principal Act, it appears to the Board of Trade that it is expedient that the business should be subject to frequent inspection or constant supervision, the Board of Trade may appoint that inspector or some other person to supervise the business with such powers as the Board of Trade may determine, and any remuneration payable and expenses incurred, whether for the original inspection or the subsequent supervision to such amount as may be fixed by the Board of Trade, shall be paid by the said person, firm, or company.

(2) Paragraph (c) of subsection (2) of section two of the principal Act shall have effect and shall be deemed always to have had effect as if for the word "trading," there were substituted the word "resident."

*Power to Use Information in Evidence against Informant.*

13. Where a person has given any information to a person appointed to inspect the books and documents of a person, firm, or company under section two of the principal Act, the information so given may be used in evidence against him in any proceedings relating to offences of trading with the enemy within the meaning of the principal Act, notwithstanding that he only gave the information on being required so to do by the inspector, in pursuance of his powers under the said section.

*Short Title and Construction.*

14.—(1) This Act may be cited as the Trading with the Enemy Amendment Act, 1914, and shall be construed as one with the principal Act.

(2) No person or body of persons shall, for the purposes of this Act, be treated as an enemy who would not be so treated for the purpose of any proclamation issued by His Majesty dealing with trading with the enemy for the time being in

force, and the expression "commencement of the present war" shall mean as respects any enemy the date on which war was declared by His Majesty on the country in which that enemy resides or carries on business.

(3) In the application of this Act to Scotland "real property" shall mean "heritable property"; "personal property" shall mean "moveable property"; "chase in action" shall mean "right of action"; "attached or otherwise taken in execution" shall mean "arrested in execution or in security, or otherwise affected by diligence"; "assignment" shall mean "assignation"; "judgment has been recovered" shall mean "decree has been obtained"; a reference to a vesting order made under the Trustee Act, 1893, shall be construed as a reference to a warrant to complete a title granted under section twelve of the Trusts (Scotland) Act, 1867, and any money paid into the Court of Session in terms of this Act shall be paid in such manner as may be prescribed by Act of sederunt.

(4) Nothing in this Act shall be construed as limiting the power of His Majesty by proclamation to prohibit any transaction which is not prohibited by this Act, or by licence to permit any transaction which is so prohibited.

## TRADING WITH THE ENEMY AMENDMENT ACT, 1915.

(5 & 6 GEO. 5, c. 79.)

See p. 214.

## THE TRADING WITH THE ENEMY PROCLAMATION, No. 2.

DATED SEPTEMBER 9, 1914.

1914. No. 1376.

• BY THE KING.

*A Proclamation relating to Trading with the Enemy.* •

GEORGE R.I.

Whereas a state of War has existed between Us and the German Empire as from 11 p.m. on August 4th, 1914, and a state of War has existed between Us and the Dual Monarchy of Austria-Hungary as from midnight on August 12th, 1914:



And whereas it is contrary to law for any person resident, carrying on business or being in Our Dominions, to trade or have any commercial or financial transactions with any person resident or carrying on business in the German Empire or Austria-Hungary without Our permission:

And whereas by Our Proclamation of the 5th August, 1914, relating to trading with the Enemy, certain classes of transactions with the German Empire were prohibited:

And whereas by paragraph 2 of Our Proclamation of the 12th August, 1914, the said Proclamation of the 5th August, 1914, was declared to be applicable to Austria-Hungary:

And whereas it is desirable to restate and extend the prohibitions contained in the former Proclamations, and for that purpose to revoke the Proclamation of the 5th August, 1914, and paragraph 2 of the Proclamation of the 12th August, 1914, and to substitute this Proclamation therefor:

And whereas it is expedient and necessary to warn all persons resident, carrying on business or being in Our Dominions, of their duties and obligations towards Us, Our Crown, and Government:

Now, therefore, We have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation declaring and it is hereby declared as follows:—

1. The aforesaid Proclamation of the 5th August, 1914, relating to trading with the Enemy, and paragraph 2 of the aforesaid Proclamation of the 12th August, 1914, together with any public announcement officially issued in explanation thereof, are hereby, as from the date hereof, revoked, and from and after the date hereof, this present Proclamation is substituted therefor.

2. The expression "enemy country" in this Proclamation means the territories of the German Empire and of the Dual Monarchy of Austria-Hungary, together with all the colonies and dependencies thereof.

3. The expression "enemy" in this Proclamation means any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of

incorporated bodies, enemy character attaches only to those incorporated in an enemy country.

4. The expression "outbreak of war" in this Proclamation means 11 p.m. on the 4th August, 1914, in relation to the German Empire, its colonies and dependencies, and midnight on the 12th August, 1914, in relation to Austria-Hungary, its colonies and dependencies.

5. From and after the date of this Proclamation the following prohibitions shall have effect, (save so far as licences may be issued as hereinafter provided), and We do hereby accordingly warn all persons resident, carrying on business or being in Our Dominions—

- (1) Not to pay any sum of money to or for the benefit of an enemy.
- (2) Not to compromise or give security for the payment of any debt or other sum of money with or for the benefit of an enemy.
- (3) Not to act on behalf of an enemy in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with any negotiable instrument.
- (4) Not to accept, pay, or otherwise deal with any negotiable instrument which is held by or on behalf of an enemy, provided that this prohibition shall not be deemed to be infringed by any person who has no reasonable ground for believing that the instrument is held by or on behalf of an enemy.
- (5) Not to enter into any new transaction, or complete any transaction already entered into with an enemy in any stocks, shares, or other securities.
- (6) Not to make or enter into any new marine, life, fire or other policy or contract of insurance with or for the benefit of an enemy; nor to accept, or give effect to any insurance of, any risk arising under any policy or contract of insurance (including re-insurance) made or entered into with or for the benefit of an enemy  
• before the outbreak of War.
- (7) Not directly or indirectly to supply to or for the use or benefit of, or obtain from, an enemy country or an

enemy, any goods, wares or merchandise, nor directly or indirectly to supply to or for the use or benefit of, or obtain from any person any goods, wares or merchandise, for or by way of transmission to or from an enemy country or an enemy, nor directly or indirectly to trade in or carry any goods, wares or merchandise destined for or coming from an enemy country or an enemy.

- (8) Not to permit any British ship to leave for, enter or communicate with, any port or place in an enemy country.
- (9) Not to enter into any commercial, financial or other contract or obligation with or for the benefit of an enemy.
- (10) Not to enter into any transactions with an enemy if and when they are prohibited by an Order of Council made and published on the recommendation of a Secretary of State, even though they would otherwise be permitted by law or by this or any other Proclamation.

And we do hereby further warn all persons that whoever in contravention of the law shall commit, aid, or abet any of the aforesaid acts, is guilty of a crime and will be liable to punishment and penalties accordingly.

6. Provided always that where an enemy has a branch locally situated in British, allied, or neutral territory, not being neutral territory in Europe, transactions by or with such branch shall not be treated as transactions by or with an enemy.

7. Nothing in this Proclamation shall be deemed to prohibit payments by or on account of enemies to persons resident, carrying on business or being in Our Dominions, if such payments arise out of transactions entered into before the outbreak of War or otherwise permitted.

8. Nothing in this Proclamation shall be taken to prohibit anything which shall be expressly permitted by Our licence, or by the licence given on Our behalf by a Secretary of State, or the Board of Trade, whether such licences be especially granted to individuals or be announced as applying to classes of persons.

9. This Proclamation shall be called the Trading with the Enemy Proclamation, No. 2.

Given at Our Court at Buckingham Palace, this Ninth day of September, in the year of our Lord one thousand nine hundred and fourteen, and in the Fifth year of Our Reign.

GOD SAVE THE KING.

PROCLAMATION, DATED OCTOBER 8, 1914, AMENDING THE  
TRADING WITH THE ENEMY PROCLAMATION No. 2.

1914. No. 1179.

BY THE KING.

*A Proclamation relating to Trading with the Enemy.*

GEORGE R.I.

Whereas it is desirable to amend Our Proclamation of the 9th September, 1914, called "The Trading with the Enemy Proclamation, No. 2":

Now, therefore, We have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation declaring and it is hereby declared as follows:—

1. Paragraph 5, heading (6), of the Trading with the Enemy Proclamation, No. 2, is hereby revoked, and in lieu thereof the following heading shall be inserted in the said Paragraph 5 as from the date hereof:—

(6) "Not to make or enter into any new marine, life, fire or other policy or contract of insurance (including re-insurance) with or for the benefit of an enemy; nor to accept, or give effect to any insurance of, any risk arising under any policy or contract of insurance (including re-insurance) made or entered into with or for the benefit of an enemy before the outbreak of war; and in particular as regards Treaties or Contracts of re-insurance current at the outbreak of war to which an enemy is a party or in which an enemy is interested not to cede to the enemy or to accept from the enemy under any such Treaty

or Contract any risk arising under any policy or contract of insurance (including re-insurance) made or entered into after the outbreak of war, or any share in any such risk."

2.—(1) The expression "Order of Council made and published on the recommendation of a Secretary of State" in Paragraph 5, heading (10), of the Trading with the Enemy Proclamation, No. 2, shall, as regards persons resident carrying on business or being in Our Dominions beyond the Seas, be taken to mean an Order of the Governor in Council published in the Official Gazette.

(2) The expression "Governor in Council" in this Paragraph means as respects Canada the Governor-General of Canada in Council, as respects India the Governor-General of India in Council, as respects Australia the Governor-General of Australia in Council, as respects New Zealand the Governor of New Zealand in Council, as respects the Union of South Africa the Governor-General of the Union of South Africa in Council, as respects Newfoundland the Governor of Newfoundland in Council, and as respects any other British Possession the Governor of that Possession in Council.

3. The power to grant licences on Our behalf vested by Paragraph 8 of the Trading with the Enemy Proclamation, No. 2, in a Secretary of State may be exercised in Canada, India, Australia and the Union of South Africa by the Governor-General, and in any British Possession not included within the limits of Canada, India, Australia or South Africa by the Governor.

4. In this Proclamation the expression "Governor-General" includes any person who for the time being has the powers of the Governor-General, and the expression "Governor" includes the Officer for the time being administering the Government.

5. Notwithstanding anything contained in Paragraph 6 of the Trading with the Enemy Proclamation, No. 2, where an enemy has a branch locally situated in British, allied or neutral, territory, which carries on the business of insurance or re-insurance of whatever nature, transactions by or with such branch in respect of the business of insurance or re-insurance shall be considered as transactions by or with an enemy.

6. This Proclamation shall be read as one with the Trading with the Enemy Proclamation, No. 2.

Given at Our Court at Buckingham Palace, this Eighth day of October, in the year of our Lord one thousand nine hundred and fourteen, and in the Fifth year of Our Reign.

GOD SAVE THE KING.

PROCLAMATION, DATED JANUARY 7, 1915, EXTENDING THE TRADING WITH THE ENEMY PROCLAMATION (NO. 2) AND THE PROCLAMATION OF OCTOBER 8TH, 1914, AMENDING THE SAME.

1915. No. 3.

BY THE KING.

*A Proclamation relating to Trading with the Enemy.*

GEORGE R.I.

Whereas by Our Proclamation dated the 9th day of September, 1914, called the Trading with the Enemy Proclamation, No. 2, certain prohibitions as therein more specifically set forth, were imposed upon all persons therein referred to:

And whereas by Our Proclamation dated the 8th day of October, 1914, the Trading with the Enemy Proclamation No. 2 was amended as therein more specifically set forth:

And whereas by Our Proclamation dated the 5th day of November, 1914, it was declared that the aforesaid Proclamations, amongst others, should apply to the state of war existing between Us and the Sultan of Turkey:

And whereas it is desirable to extend the scope of the prohibitions contained in the aforesaid Proclamations in the manner hereinafter appearing:

Now, therefore, We have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation, declaring, and it is hereby declared, as follows:—

1. Notwithstanding anything contained in paragraph 6 of the Trading with the Enemy Proclamation No. 2 transactions here-

after entered into by persons firms or companies resident carrying on business or being in the United Kingdom

- (a) in respect of banking business with a branch situated outside the United Kingdom of an enemy person firm or company, or
- (b) in respect of any description of business with a branch situated outside the United Kingdom of an enemy bank,

shall be considered as transactions with an enemy:

Provided that the acceptance payment or other dealing with any negotiable instrument which was drawn before the date of this Proclamation shall not, if otherwise lawful, be deemed to be a transaction hereafter entered into within the meaning of this paragraph.

2. The power to grant licences on Our behalf vested by paragraph 8 of the Trading with the Enemy Proclamation No. 2 in a Secretary of State, or the Board of Trade, may also be exercised by the Lords Commissioners of Our Treasury.

3. If the Governor in Council of any British possession shall issue a Proclamation extending the provisions of this Proclamation to transactions by persons firms or companies resident carrying on business or being in that possession such first mentioned Proclamation shall have effect as if it were part of this Proclamation.

4. This Proclamation shall be read as one with the Trading with the Enemy Proclamation No. 2, and with Our Proclamation dated the 8th day of October amending the same.

Given at Our Court at Buckingham Palace, this Seventh day of January, in the year of our Lord one thousand nine hundred and fifteen, and in the Fifth year of Our Reign.

GOD SAVE THE KING.

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**THE TRADING WITH THE ENEMY (OCCUPIED TERRITORY) PRO-  
CLAMATION, 1915. DATED FEBRUARY 16, 1915.**

1915. No. 140.

BY THE KING.

*A Proclamation relating to Trading with the Enemy  
(Occupied Territory).*

GEORGE R.I.

Whereas, as a result of the present war, certain territory forming part of the territory of an enemy country, is or may be in the effective military occupation of Us or Our Allies, or of a Neutral State (in this Proclamation referred to as "territory in friendly occupation"), and certain territory forming part of Our territory or of that of an allied or neutral State, is or may be in the effective military occupation of an enemy (in this Proclamation referred to as "territory in hostile occupation"):

And whereas it is expedient in Our interest and in that of Our Allies that the Proclamations relating to trading with the enemy should apply to territory in friendly occupation as they apply to Our territory or that of Our Allies, and should apply to territory in hostile occupation as they apply to an enemy country:

Now, therefore, We have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation declaring, and it is hereby declared, as follows:—

1. The Proclamations for the time being in force relating to trading with the enemy shall apply to territory in friendly occupation as they apply to Our territory or that of Our Allies, and to territory in hostile occupation as they apply to an enemy country.

2. Any references to the outbreak of the war in any Proclamation so applied shall, as respects territory in friendly or hostile occupation, be construed as references to the time at which the territory so became in friendly or hostile occupation.

3. The certificate of any person authorised by a Secretary of State to give such certificates that any territory is in friendly



or hostile occupation within the meaning of this Proclamation, or as to the time at which any territory so became or ceased to be territory in friendly or hostile occupation, shall, for the purposes of this Proclamation, be final and conclusive.

4. Nothing in this Proclamation shall be taken to prohibit anything which may be expressly permitted by Our Licence or by a licence given on Our behalf by a Secretary of State, or the Board of Trade, or the Lords Commissioners of Our Treasury, whether such licences be specially granted to individuals or be announced as applying to classes of persons, or to prohibit any special arrangements which may be made by any such licence or otherwise with Our authority for special treatment of any occupied territory or persons in any such occupied territory entitled to such special treatment.

5. This Proclamation shall be called the Trading with the Enemy (Occupied Territory) Proclamation, 1915.

Given at Our Court at Buckingham Palace, this Sixteenth day of February, in the year of our Lord one thousand nine hundred and fifteen, and in the Fifth year of Our Reign.

GOD SAVE THE KING.

A PROCLAMATION RELATING TO TRADING WITH PERSONS OF  
ENEMY NATIONALITY RESIDENT OR CARRYING ON BUSI-  
NESS IN CHINA, SIAM, PERSIA, OR MOROCCO.

BY THE KING.

GEORGE R.I.

Whereas it is expedient that transactions between British subjects and persons of enemy nationality resident or carrying on business in China, Siam, Persia, or Morocco should be restricted in manner provided by this Proclamation:

Now, therefore, We have thought fit, by and with the advice of Our Privy Council, to issue this Our Royal Proclamation declaring, and it is hereby declared, as follows:—

1. The Proclamations for the time being in force relating to Trading with the Enemy shall, as from the twenty-sixth day

of July, nineteen hundred and fifteen, apply to any person or body of persons of enemy nationality resident or carrying on business in China, Siam, Persia, or Morocco in the same manner as they apply to persons or bodies of persons resident or carrying on business in an enemy country.

Provided that where an enemy has a branch locally situated in China, Siam, Persia, or Morocco, nothing in Article 6 of the Trading with the Enemy Proclamation No. 2 shall be construed so as to prevent transaction by or with that branch being treated as transaction by or with an enemy.

2. Nothing in this Proclamation shall be taken to prohibit anything which may be specially permitted by Our licence or by a licence given on Our behalf by a Secretary of State or the Board of Trade or the Lords Commissioners of Our Treasury.

3. This Proclamation shall be called the Trading with the Enemy (China, Siam, Persia, and Morocco) Proclamation, 1915.

Given at Our Court at Buckingham Palace, this twenty-fifth day of June, in the year of our Lord one thousand nine hundred and fifteen, and in the sixth year of Our Reign.

GOD SAVE THE KING.

THE TRADING WITH THE ENEMY (VESTING AND APPLICATION OF PROPERTY) RULES, 1915, DATED JANUARY 11, 1915, MADE BY THE LORD CHANCELLOR UNDER THE TRADING WITH THE ENEMY AMENDMENT ACT, 1914.

1915. No. 22.

1. In these Rules—

The expression "the Act" means the Trading with the Enemy Amendment Act, 1914.

• The expression "the custodian" has the same meaning as in the Act; and the expression "enemy" has a meaning corresponding with that given to "enemies" in the Act.

'The expression "property" means any real or personal property, including any rights, whether legal or equitable, in or arising out of property real or personal.

References to sections and sub-sections are references to sections and sub-sections of the Act.

2.—(1) Applications under Section four shall be by way of originating summons and shall be made to the Chancery Division of the High Court, and such applications and any subsequent applications shall in general and except so far as hereby otherwise provided be made and dealt with *mutatis mutandis* in accordance with the practice of that Division with regard to similar matters under the Rules of the Supreme Court and otherwise.

(2) Any respondent to the originating summons shall not be required to enter any appearance thereto and accordingly Rule 4E of Order LIV. of the Rules of the Supreme Court shall apply thereto.

(3) In all cases where the originating summons is not taken out by the custodian, he shall be named as a respondent thereto and it shall be served on him unless the Court shall in any case or class of cases otherwise order.

(4) In general and except so far as the Court may otherwise order the enemy to whom any property may be alleged to belong shall be named as a respondent to any originating summons under Section four, and any person or corporation holding or managing any property alleged to belong to the enemy may also be named as a respondent to the originating summons.

(5) Originating summonses under Section four shall be intituled in the matter of the Act and in the matter of the enemy or alleged enemy in question and may be in the form or to the effect set out in the Schedule hereto.

(6) Any powers of selling, managing, or otherwise dealing with property which may be given to the custodian by any order made under Section four of the Act may from time to time be revoked, suspended, varied, increased, added to, or otherwise dealt with as the Court or a Judge shall from time to time think fit on application made either under liberty reserved by the original Order or otherwise.

2. On any application under Section four the applicant must file an affidavit or affidavits for the purpose of showing—

- (a) that the enemy, whose property is proposed to be dealt with, is an enemy;
- (b) the nature and extent of the property in which the enemy is alleged to be interested;
- (c) any special ground on which it is expedient that the property should be vested in the custodian; and
- (d) in cases where the applicant is not the custodian or a Government Department, the facts showing that the applicant is a creditor of the enemy or otherwise entitled to apply under Section four.

3.—(1) Any subsequent application with regard to any property comprised in any originating summons under Section four or vested in the custodian may be made by ordinary summons entitled in the same matters as the originating summons.

(2) In cases where any party has already appeared by a solicitor any such ordinary summons may be served on that solicitor or in case of a change of solicitors on the solicitor last appearing for that party although no general appearance in the matter has been entered.

(3) Every subsequent application not made by the custodian shall be served on him unless the Court shall in any case or class of cases otherwise order.

4.—(1) Any application under Section five (2) of the Act for payment out of property vested in the custodian of any debt or debts shall, if made to the Court or Judge by whose order the property was vested in the custodian, be made and dealt with as follows: . . .

(2) The application shall be deemed a subsequent application for the purpose of the last preceding Rule.

(3) The Court or Judge may on the hearing of the application direct all such accounts and inquiries as may be necessary or proper for the purpose of ascertaining the total debts and claims having priority to or ranking with the debt or debts proposed to be paid in whole or part, and (if thought fit) the property available for the payment of such debts and claims, and may for that purpose direct the custodian or any party to issue such advertisements and require such proof by statutory de-

claration or otherwise as may be expedient. And the custodian may, if he think fit, carry out the duties imposed on him by the proviso to Section five (2) under the direction of the Court.

(4) In directing any payment or payments under Section five (2) the Court or Judge shall act in accordance with the ordinary rules and practice of the Chancery Division of the High Court in the administration of estates but so nevertheless that the Court shall not be bound to inquire into or take into account or to cause the custodian to inquire into or take into account debts and claims against the enemy to any greater extent than provided for by the proviso to Section five (2).

5.—(1) Any application under Section five (2) of the Act for payment out of property vested in the custodian of any debt or debts shall, if made to a Court in which judgment has been recovered against an enemy as such Court, be made and dealt with to and by that Court as follows:—

(2) It shall be made by summons in the proceeding in which judgment has been recovered.

(3) Such summons shall be addressed to and served on the custodian in addition to any other proper party and shall be returnable and heard as the Court in question shall direct.

(4) If on the hearing of a summons under this rule it shall happen either that the custodian makes no objection to making the payment or some part thereof or if it shall otherwise appear clear to the Court that the payment or some part thereof ought to be made and can be made without prejudice to other persons owning debts or claims against the enemy in question then and in either of the said cases the Court may make an order for payment accordingly but so nevertheless as not to prejudice or affect the duty of the custodian under the proviso to Section five (2).

(5) In any other case than those provided for by the last preceding sub-rule and also in any case thereby provided for where a partial payment only has been ordered the Court in which judgment has been recovered shall not as such Court order any payment or any further payment as the case may be but may and in general shall transfer the application to be dealt with by the Court or judge by whose order the property was vested in the custodian.

6. Any application under this Act whether original subsequent or other may be proceeded with heard and dealt with by the Court or a judge if thought fit in the absence of an enemy or any other party who may be or appear to be abroad or whose whereabouts may not be known or whose presence may otherwise be difficult to secure and without service of any summons or notice of summons on any such party or any intimation to such party other than such if any as the Court shall think fit. And this sub-rule shall be in addition to and by way of extension and enlargement of the ordinary powers and practice of the Court as to proceedings *ex parte* and as to substituted service.

7. The Court may at any stage of the proceedings on any application under Section four or Section five order that the case shall thenceforward be heard in private.

8. Any order made under Section four or Section five of these Rules may, should subsequent circumstances render it just so to do, be suspended discharged or otherwise varied or altered by the Court which made such order.

9. The following fees shall be payable under these Rules that is to say -

On any summons whether original or subsequent 2s. 6d.

Provided that the Court may remit or excuse either in whole or part any court fees paid or payable under this Rule.

10. The proceedings on any application under the Act shall so far as not otherwise provided for by these Rules be conducted in accordance with the ordinary practice dealing with similar matters of the Court to which application is made. And the costs of all, and incidental to all, such proceedings shall be in the discretion of the Court.

11. In the case of any property within the jurisdiction of a palatinate Court any original application which would under the foregoing Rules be made to the Chancery Division may if the applicant think fit be made to the palatinate Court and if so made any subsequent proceedings shall also take place in that Court and the foregoing Rules shall *mutatis mutandis* apply to any such original and subsequent proceedings.

11a. These Rules may be cited as The Trading with the Enemy (Vesting and Application of Property) Rules, 1915, and shall come into operation forthwith.

THE COUNTY COURTS TRADING WITH THE ENEMY (APPLICATION OF PROPERTY) RULES, 1915, DATED FEBRUARY 15, 1915, MADE BY THE LORD CHANCELLOR FOR COUNTY COURTS UNDER THE TRADING WITH THE ENEMY AMENDMENT ACT, 1914.

1915. No. 115.

*Preliminary.*

The following Rules under the Trading with the Enemy Amendment Act, 1914, shall apply to the County Courts and the City of London Court (which shall for the purposes of these Rules be deemed to be a County Court) in substitution for Rules 1 and 5 to 10 of the Trading with the Enemy (Vesting and Application of Property) Rules, 1915, dated January 11, 1915.

These Rules may be cited as the County Courts Trading with the Enemy (Application of Property) Rules, 1915, and shall come into operation on the 16th day of February, 1915.

*Definitions.*

1. In these Rules—

The expression “the Act” means the Trading with the Enemy Amendment Act, 1914.

The expression “the custodian” has the same meaning as in the Act; and the expression “enemy” has a meaning corresponding with that given to “enemies” in the Act.

References to sections and sub-sections are references to sections and sub-sections of the Act.

*Applications under sect. 5 (2).*

2.—(1) Any application under section five (2) of the Act for payment out of property vested in the custodian of any debt or debts shall, if made to a county court in which judgment has been recovered against an enemy, be made to and dealt with by the court as follows:—

(2) It shall be made by interlocutory application in the proceeding in which judgment has been recovered.

(3) Notice of the application shall be addressed to and served on the custodian and on every other person affected thereby four

clear days at least before the day fixed for the hearing of the application, unless in any case the judge or registrar gives leave for shorter service. Service shall be effected in accordance with the County Court Rules as to service of notice of an interlocutory application.

(4) The application shall be made to the judge.

*Evidence in Support of Application.*

3. It shall not be necessary in the first instance for a creditor to support the application by any affidavit or other evidence, except such evidence, if any, as may be required to show the nature and extent of the relief required by him. But the judge may in any case make such requirements or give such directions as to evidence on the part of any party as the case shall require.

*Power to Hear Cases in Private.*

4. The judge may at any stage of the proceedings on any application order that the case shall thenceforward be heard in private.

*Orders on Applications. Transfer to High Court.*

5. —(1) If on the hearing of any application under these Rules the custodian makes no objection to making the payment or some part thereof, or if it shall otherwise appear clear to the judge that the payment or some part thereof ought to be made and can be made without prejudice to other persons owning debts or claims against the enemy in question, then and in either of the said cases the judge may make an order authorizing payment accordingly, but so nevertheless as not to prejudice or affect the duty of the custodian under the proviso to section five (2).

(2) In any other case than those provided for by the last preceding sub-rule, and also in any case thereby provided for where a partial payment only has been ordered, the judge of the court in which judgment has been recovered shall not order any payment or any further payment, as the case may be, but he shall, unless he is satisfied that the application should be dismissed, order the same to be transferred to the judge of the High Court



by whose order the property was vested in the custodian, to be further dealt with by him.

*Transmission of Record.*

(3) Where any application is transferred pursuant to this Rule, the registrar shall transmit the record in accordance with Order XXXIII., Rule 7, of the County Court Rules.

*Dispensing with Notice. Substituted Service.*

6. Any application under these Rules may be proceeded with and heard and dealt with by the judge if thought fit in the absence of an enemy or any other party who may be or appear to be abroad, or whose whereabouts may not be known, or whose presence may otherwise be difficult to secure, and without service of any notice on any such party or any intimation to such party, other than such, if any, as the judge shall think fit. And this sub-rule shall be in addition to and by way of extension and enlargement of the ordinary powers and practice of the court as to proceedings *ex parte* and as to substituted service.

PREPARATION, FILING, ETC., OF NOTICES.

*Preparation, &c., of Notices and Copies.*

7. A notice of an application shall be prepared by the applicant and filed with the registrar, with as many copies as there are parties to be served; Provided that any notice, with the necessary copies, may, if the registrar so thinks fit, be prepared in his office; And the registrar shall examine, complete, seal, and where necessary sign the same, and shall return the copies to the applicant for service.

*Orders on Applications.*

8. Where an order is made on an application under these Rules, the order shall be prepared and sealed by the registrar and delivered to the bailiff, who shall within twenty-four hours send the same, by post or otherwise, to the custodian and to the party against whom the order is made; but it shall not be necessary for the party in whose favour it is made to prove, previously to taking proceedings thereon, that it was posted or reached the opposite party.

## REVOCATION OR VARIATION OF ORDERS.

• *Power to Revoke or Vary Orders.*

9. Any order made under these Rules may, should subsequent circumstances render it just so to do, be suspended, discharged or otherwise varied or altered on interlocutory application to the judge of the court in which the order was made.

*Fees.*

10. The following fee shall be payable under Schedule B, Part I., of the Treasury Order regulating Fees in the County Courts, on proceedings under these Rules, viz.:

On any notice of application, 2s. 6d.

The fee prescribed by this Rule shall include drawing, sealing, and issuing the order, and the fee prescribed by paragraph 12 of Schedule B, Part I., of the Fees Order shall not be taken; but this Rule shall not affect the fees payable on orders for substituted service.

The judge may remit or excuse in whole or in part any fees paid or payable under this Rule.

## PROCEEDINGS ON APPLICATIONS.

*Ordinary Practice of Court to be Followed.*

11. The proceedings on any application under these Rules shall, so far as not expressly provided for by these Rules, be conducted in accordance with the ordinary practice of the court in dealing with similar matters.

*Costs.*

12. (1) The costs of any application under these Rules shall be in the discretion of the judge.

(2) The judge may either fix the amount of such costs, or allow them on the scale applicable to an interlocutory application in the action in which the application is made; provided that Column B of the scale shall apply to all cases above twenty pounds to the exclusion of Column C.

(3) Where the amount of the subject-matter does not exceed

ten pounds, there may be allowed for all work done by a solicitor in relation to the application—

If the amount exceeds 2*l.*, but does not exceed 5*l.*, 3*s.*

If the amount exceeds 5*l.*, but does not exceed 10*l.*, 5*s.*

(4) The judge may direct that any costs allowed shall be payable forthwith, or that they shall be included in the sum recovered under the judgment or order.

The 15th day of February, 1915.

HALDANE, C.

We, the undersigned, two of the Commissioners of His Majesty's Treasury, do hereby, with the consent of the Lord Chancellor, order that the fees specified in Rule 10 of the foregoing Rules shall be taken on the proceedings therein mentioned, in lieu of all other fees for the proceedings therein set forth.

WALTER R. REA.

CECIL BECK.

I concur in the above order as to fees.

HALDANE, C.

**THE TRADING WITH THE ENEMY (SUSPECTED COUPONS) RULES,  
1915, DATED JANUARY 11, 1915, MADE UNDER SECTION 7  
OF THE TRADING WITH THE ENEMY AMENDMENT ACT,  
1914.**

1915. No. 23.

**1. In these Rules—**

The expression "the Act" means the Trading with the Enemy Amendment Act, 1914.

The expression "enemy" has a meaning corresponding with that given by the Act to the expression "enemies."

The expression "suspecting presentee" means any company, municipal authority, or other body or person to whom during the continuance of the present war a coupon or other security transferable by delivery is presented for payment, and who has reason to suspect that it is so pre-

- sented on behalf of the benefit of an enemy, or that since
- the commencement of the present war it has been held by
- or for the benefit of an enemy.

The expression "suspected coupons" means any coupon or coupons or other security or securities transferable by delivery, or batch of such coupons or securities that may during the currency of the present war be presented for payment to a suspecting presentee.

The expression "suspected enemy" means the enemy on whose behalf or for whose benefit the suspected coupons are suspected of being presented or, as the case may be, by whom or for the benefit of whom they are suspected of having been held since the commencement of the present war.

2. Where a suspecting presentee desires under Section seven of the Act to make a payment into Court of money due in respect of suspected coupons, he shall make and file in the Chancery Division of the High Court an affidavit intituled in the matter of the suspected coupons (described so as to be distinguishable so far as may be) and in the matter of the Act, and setting forth or indicating either in the affidavit itself or in one or more exhibits thereto:—

- (a) Short particulars of the suspected coupons with names, numbers, dates, and amounts for the purpose of the identification thereof, so far as reasonably practicable.
- (b) The name, so far as known, of the party actually presenting the suspected coupons, and his place of residence to the best of the suspecting presentee's knowledge and belief.
- (c) The circumstances producing suspicion in the mind of the suspecting presentee, and the name of the suspected enemy and his place of residence to the best of the suspecting presentee's knowledge and belief.
- (d) The submission of the suspecting presentee to answer all such inquiries relating to the application of the money paid into Court as the Court or a Judge may make or direct.

- (e) The place where the suspecting presentee is to be served with any petition summons or order or notice of any proceeding relating to the money paid in.

3. On making any payment into Court as aforesaid, the suspecting presentee shall forthwith proceed to give, so far as may be, notice thereof by prepaid letter through the post to the party actually presenting the suspected coupons and to the suspected enemy or to some person thought likely to be in communication with the suspected enemy.

4.—(1) No petition or summons relating to the money paid in shall be answered or issued unless the petitioner or applicant has named therein a place where he may be served with any petition or notice of any proceeding or order relating to the money paid in or any income thereof.

(2) Service shall be made or such other notice or intimation given as the Court or a Judge shall direct on or to such persons (if any) as the Court or a Judge shall direct of any application in respect of the money paid in or any income thereof: Provided that (by way of extension of the powers and practice of the Court) the Court or a Judge may if thought fit proceed in the absence of any such service, notice, or intimation on or to any enemy (including the suspected enemy) or other person who may be or appear to be abroad, or whose whereabouts may not be known.

(3) Applications to deal with money paid into Court under the Act shall be intituled in the same manner as the affidavit on which the money was paid in.

5. Money paid in under Section seven of the Act and these Rules may, on the request of the suspecting presentee when paying in or on any subsequent application, be placed on deposit or invested in any securities available for the investment of cash under the control of the Court.

6. The proceedings and practice with reference to moneys paid into Court under Section seven of the Act and the dealings therewith shall, so far as not otherwise provided for by these Rules, be in accordance with the ordinary practice of the Chancery Division with reference to moneys paid into Court

on affidavit under Section forty-two of the Trustee Relief Act, 1893.

7. These Rules may be cited as "The Trading with the Enemy (Suspected Coupons) Rules, 1915," and shall come into force forthwith.

Dated the 11th of January, 1915.

HALDANE, C.

## APPENDIX D.

## LEGAL PROCEEDINGS.

LEGAL PROCEEDINGS AGAINST ENEMIES ACT,  
1915.

(5 GEO. 5, c. 36.)

*An Act to facilitate Legal Proceedings against Enemies in certain cases.* [16th March, 1915.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*Provision with Respect to Writs issued against Enemy in certain cases.*

1.—(1) Leave may be given to issue a writ of summons in the High Court for service on an enemy out of the jurisdiction or of which notice is to be given to an enemy out of the jurisdiction if the court or judge is satisfied that the case is a case to which this section applies, and the court or a judge may, on an application made at the time leave is so given or at any subsequent time, if satisfied that the writ cannot promptly be served or brought to the notice of the enemy defendant by any of the usual means, make an order (in this Act referred to as an enemy service order) directing substituted or other service of the writ or the substitution of notice for service by means of advertisement or otherwise; and on that order being complied with, all proceedings may be taken on the claim as if the writ had been served on the enemy defendant by the usual means.

(2) The Lord Chancellor may make such rules as he thinks fit for expediting proceedings and regulating procedure gene-

rally in a case where an enemy service order has been made and the enemy defendant does not appear; and any rules so made shall have effect as if they were included in the rules of court for the time being in force.

(3) The court or judge, where an enemy service order has been made and it appears not to be practicable to obtain the best evidence of any document which is, in the opinion of the court or judge, material to the case, may admit such other evidence thereof as appears proper in the circumstances.

(4) The court or judge shall have power, where an enemy service order has been made and the enemy defendant does not appear, to order the plaintiff, though successful, to pay the whole or any part of the costs of the proceedings, if the court or judge consider that it is just to do so in the special circumstances of the case.

(5) The fact that, for the purpose of obtaining the benefit of this section, a writ of summons has been indorsed only with a claim for a declaration in accordance therewith shall not prevent any other declaration or any consequential or other relief being claimed in other proceedings, or prevent the case being dealt with, although no such other declaration or consequential or other relief is claimed.

(6) This section applies to cases where—

- (a) the plaintiff is a British subject and is entitled for the time being to bring an action in the High Court; and
- (b) the defendant or one of the defendants is an enemy; and
- (c) the writ is indorsed only with a claim for a declaration as to the effect of the present war on rights or liabilities of the plaintiff or defendant under a contract entered into before the outbreak thereof; and
- (d) there is written evidence of the contract.

### *Interpretation.*

2. For the purposes of this Act—

- (a) the expression "enemy" means any persons or body of persons of whatever nationality resident or carrying
  - on business in an enemy country, but does not include persons of enemy nationality who are neither resident
  - nor carrying on business in an enemy country; and



- (b) the expression "outbreak of war" shall, as respects any enemy, be construed as referring to the date of the outbreak of war with the enemy country in which the enemy is resident or carrying on business; and
- (c) the expression "British subject" includes a corporation incorporated in His Majesty's Dominions.

*Saving.*

3. Nothing in this Act shall prejudice or interfere with any powers of the court to give leave to issue a writ of summons or to adjourn, postpone, or otherwise deal with, any proceedings on any claim against an enemy, and the court or judge may, if it appears on any proceedings in a case where an enemy service order has been made that for any reason the case cannot properly be dealt with under this Act, dismiss the case, without prejudice to any subsequent proceedings in the same matter.

*Application to Ireland.*

4. In the application of this Act to Ireland the Lord Chancellor of Ireland shall be substituted for the Lord Chancellor.

*Short Title.*

5.—(1) This Act may be cited as the Legal Proceedings against Enemies Act, 1915.

(2) This Act shall not apply to Scotland.

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RULES, DATED MARCH 16, 1915, MADE BY THE LORD CHANCELLOR UNDER THE LEGAL PROCEEDINGS AGAINST ENEMIES ACT, 1915.

1915. No. 232.

1. All applications and proceedings under the Legal Proceedings against Enemies Act, 1915 (in these Rules referred to as the Act), shall be made and taken in the King's Bench Division of the High Court of Justice to and before such Judge or Judges thereof, as the Lord Chief Justice shall from time to time direct: Provided always that such Judge or Judges may

order that any such application or proceeding shall be transferred to any other Division of the High Court, subject to the consent of the President of that Division, and thereupon, on such consent being obtained, the said application or proceeding shall be so transferred, but any provisions of these Rules or directions given by the Lord Chief Justice thereunder shall apply so far as they are not inconsistent with the practice of that Division.

2. The indorsement of claim on any writ of summons, leave to issue which is sought under the Act, shall set forth the declaration which the Plaintiff seeks and give particulars of the contract in respect of which such declaration is sought. The Judge shall have power to make, or allow, any amendment of such indorsement at any stage of the proceedings.

3. The Lord Chief Justice may from time to time give directions as to the practice and procedure to be adopted on applications and proceedings under the Act.

4. Subject to the provisions of the Act and these Rules and any directions thereunder the same practice and procedure may be adopted in any application or proceeding under the Act as would or might be adopted in any action or matter under the Rules of the Supreme Court.

5. Where an enemy service order has been made and the enemy defendant appears, nothing in these Rules shall apply to any proceedings taken after the appearance.

HALDANE, C.

The 16th of March, 1915.

• • •

DIRECTIONS DATED MARCH 30, 1915, OF THE LORD CHIEF JUSTICE AS TO PROCEDURE UNDER THE LEGAL PROCEEDINGS AGAINST ENEMIES ACT, 1915.

1. Every application for leave to issue a Writ of Summons or to serve the same or give notice thereof under the Act shall be made *ex parte* to the Judge and shall be supported by an affidavit intituled in the matter of the Act and of the intended Action setting forth such facts as may be necessary to show that the case is one to which the Act applies. The affidavit must also

state the reasons for which the Writ or Notice cannot be promptly served or brought to the notice of the Defendant, and how it is sought to serve or give notice thereof, and the grounds for resorting to this manner of service.

2. On the hearing of such application or at any subsequent time on an application made *ex parte* or on such notice as the Judge shall think fit, the Judge may give directions as to—

- (a) The issue of the Writ.
- (b) The service of the Writ or Notice thereof or substituted or other service thereof.
- (c) The time within which the Defendant may enter an appearance to the Writ.
- (d) Whether any and if so what particulars or points of claim shall be delivered with the Writ or Notice or otherwise.
- (e) Whether any and if so what Notice of Trial shall be given to the Defendant, and when and how such notice (if any) shall be given.
- (f) What discovery of documents shall be made.
- (g) The mode in which any fact or document may be proved.
- (h) The service on or notice to the Defendant of any Order made hereunder or any judgment given under the Act, and generally as to the trial of the Action and all matters in relation thereto.

3. Any Order made under Rule 4 may be rescinded, varied or altered by the Judge on a subsequent application to him.

4. In these directions "the Act" means the "Legal Proceedings against Enemies Act, 1915," and "the Judge" means the Judge or one of the Judges for the time being nominated by the Lord Chief Justice as the Judge or Judges to and before whom applications and proceedings under the Act shall be made and taken.

READING, C. J.

The Honourable Mr. Justice Bray shall be the Judge by whom all applications and proceedings under the Legal Proceedings against Enemies Act, 1915, will be heard.

READING, C. J.

March 30th, 1915.

## APPENDIX E.

## CONTRABAND AND BLOCKADE.

PROCLAMATION, DATED AUGUST 5, 1914, PROHIBITING BRITISH VESSELS FROM CARRYING CONTRABAND OF WAR FROM ONE FOREIGN PORT TO ANY OTHER FOREIGN PORT.

1914. No. 1251.

BY THE KING.

*A Proclamation prohibiting British Vessels from carrying Contraband from one Foreign Port to any other Foreign Port.*

GEORGE R.I.

Whereas a state of war exists between Us on the one hand and the German Empire on the other :

And whereas We have by Proclamation warned all persons resident, carrying on business, or being in Our Dominions, that it is contrary to law for them to have any commercial intercourse with any person resident, carrying on business, or being in the said Empire, or to trade in or carry any goods, wares, or merchandise destined for or coming from the said Empire, or for or from any person resident, carrying on business, or being therein; Now we do hereby further warn all Our subjects that conformably with that prohibition it is forbidden to carry in British Vessels from any Foreign Port to any other Foreign Port any article comprised in the list of contraband of war issued by Us unless the shipowner shall have first satisfied himself that the articles are not intended ultimately for use in the enemy country. Any British Vessel acting in con-

transgression of this Proclamation will be liable to capture by Our Naval Forces and to be taken before Our Prize Courts for adjudication, and any of Our subjects acting in contravention of this Proclamation will be liable to such penalties as the law prescribes.

Given at Our Court at Buckingham Palace, this Fifth day of August, in the year of our Lord one thousand nine hundred and fourteen, and in the Fifth year of Our Reign.

GOD SAVE THE KING.

ORDER IN COUNCIL FRAMING REPRISALS FOR RESTRICTING  
FURTHER THE COMMERCE OF GERMANY.

1915. No. 206.

At the Court at Buckingham Palace, the 11th day of March, 1915.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas the German Government has issued certain Orders which, in violation of the usages of war, purport to declare the waters surrounding the United Kingdom a military area, in which all British and allied merchant vessels will be destroyed irrespective of the safety of the lives of passengers and crew, and in which neutral shipping will be exposed to similar danger in view of the uncertainties of naval warfare;

And whereas in a memorandum accompanying the said Orders neutrals are warned against entrusting crews, passengers, or goods to British or allied ships;

And whereas such attempts on the part of the enemy give to His Majesty an unquestionable right of retaliation;

And whereas His Majesty has therefore decided to adopt further measures in order to prevent commodities of any kind from reaching or leaving Germany, though such measures will be enforced without risk to neutral ships or to neutral or non-

combatant life, and in strict observance of the dictates of humanity:

And whereas the Allies of His Majesty are associated with Him in the steps now to be announced for restricting further the commerce of Germany:

His Majesty is therefore pleased, by and with the advice of His Privy Council, to order and it is hereby ordered as follows:-

I. No merchant vessel which sailed from her port of departure after the 1st March, 1915, shall be allowed to proceed on her voyage to any German port.

Unless the vessel receives a pass enabling her to proceed to some neutral or allied port to be named in the pass, goods on board any such vessel must be discharged in a British port and placed in the custody of the Marshal of the Prize Court. Goods so discharged, not being contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the Court, upon such terms as the Court may in the circumstances deem to be just, to the person entitled thereto.

II. No merchant vessel which sailed from any German port after the 1st March, 1915, shall be allowed to proceed on her voyage with any goods on board laden at such port.

All goods laden at such port must be discharged in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the Marshal of the Prize Court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the Prize Court. The proceeds of goods so sold shall be paid into Court and dealt with in such manner as the Court may in the circumstances deem to be just.

Provided that no proceeds of the sale of such goods shall be paid out of Court until the conclusion of peace, except on the application of the proper Officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this Order.

Provided also that nothing herein shall prevent the release of neutral property laden at such enemy port on the application of the proper Officer of the Crown.

III. Every merchant vessel which sailed from her port of departure after the 1st March, 1915, on her way to a port other

than a German port, carrying goods with an enemy destination, or which are enemy property, may be required to discharge such goods in a British or allied port. Any goods so discharged in a British port shall be placed in the custody of the Marshal of the Prize Court, and, unless they are contraband of war, shall, if not requisitioned for the use of His Majesty, be restored by order of the Court, upon such terms as the Court may in the circumstances deem to be just, to the person entitled thereto.

Provided that this Article shall not apply in any case falling within Articles II. or IV. of this Order.

IV. Every merchant vessel which sailed from a port other than a German port after the 1st March, 1915, having on board goods which are of enemy origin or are enemy property may be required to discharge such goods in a British or allied port. Goods so discharged in a British port shall be placed in the custody of the Marshal of the Prize Court, and, if not requisitioned for the use of His Majesty, shall be detained or sold under the direction of the Prize Court. The proceeds of goods so sold shall be paid into Court and dealt with in such manner as the Courts may in the circumstances deem to be just.

Provided that no proceeds of the sale of such goods shall be paid out of Court until the conclusion of peace except on the application of the proper Officer of the Crown, unless it be shown that the goods had become neutral property before the issue of this Order.

Provided also that nothing herein shall prevent the release of neutral property of enemy origin on the application of the proper Officer of the Crown.

V.—(1) Any person claiming to be interested in, or to have any claim in respect of, any goods (not being contraband of war) placed in the custody of the Marshal of the Prize Court under this Order, or in the proceeds of such goods, may forthwith issue a writ in the Prize Court against the proper Officer of the Crown and apply for an order that the goods should be restored to him, or that their proceeds should be paid to him, or for such other order as the circumstances of the case may require.

(2) The practice and procedure of the Prize Court shall, so far as applicable, be followed *mutatis mutandis* in any proceedings consequential upon this Order.

VI. A merchant vessel which has cleared for a neutral port from a British or allied port, or which has been allowed to pass having an ostensible destination to a neutral port, and proceeds to an enemy port, shall, if captured on any subsequent voyage, be liable to condemnation.

VII. Nothing in this Order shall be deemed to affect the liability of any vessel or goods to capture or condemnation independently of this Order.

VIII. Nothing in this Order shall prevent the relaxation of the provisions of this Order in respect of the merchant vessels of any country which declares that no commerce intended for or originating in Germany or belonging to German subjects shall enjoy the protection of its flag.

ALMERIC FITZROY.

## THE DECLARATION OF LONDON, 1909.

### CHAPTER II.

#### *Contraband of War.*

#### ARTICLE 22.

THE following articles may, without notice, be treated as contraband of war, under the name of absolute contraband:—

- (1) Arms of all kinds, including arms for sporting purposes, and their distinctive component parts.
- (2) Projectiles, charges, and cartridges of all kinds, and their distinctive component parts.
- (3) Powder and explosives specially prepared for use in war.
- (4) Gun-mountings, limber boxes, limbers, military waggons, field forges, and their distinctive component parts.
- (5) Clothing and equipment of a distinctively military character.
- (6) All kinds of harness of a distinctively military character.
- (7) Saddle, draught, and pack animals suitable for use in war.
- (8) Articles of camp equipment, and their distinctive component parts.
- (9) Armour plates.



- (10) Warships, including boats, and their distinctive component parts of such a nature that they can only be used on a vessel of war.
- (11) Implements and apparatus designed exclusively for the manufacture of munitions of war, for the manufacture or repair of arms, or war material for use on land or sea.

## ARTICLE 23.

Articles exclusively used for war may be added to the list of absolute contraband by a declaration, which must be notified.

Such notification must be addressed to the Governments of other Powers, or to their representatives accredited to the Power making the declaration. A notification made after the outbreak of hostilities is addressed only to neutral Powers.

## ARTICLE 24.

The following articles, susceptible of use in war as well as for purposes of peace, may, without notice, be treated as contraband of war, under the name of conditional contraband:—

- (1) Foodstuffs.
- (2) Forage and grain, suitable for feeding animals.
- (3) Clothing, fabrics for clothing, and boots and shoes, suitable for use in war.
- (4) Gold and silver in coin or bullion; paper money.
- (5) Vehicles of all kinds available for use in war, and their component parts.
- (6) Vessels, craft, and boats of all kinds; floating docks, parts of docks and their component parts.
- (7) Railway material, both fixed and rolling-stock, and material for telegraphs, wireless telegraphs, and telephones.
- (8) Balloons and flying machines and their distinctive component parts, together with accessories and articles recognizable as intended for use in connection with balloons and flying machines.
- (9) Fuel; lubricants.

- (10) Powder and explosives not specially prepared for use in war.
- (11) Barbed wire and implements for fixing and cutting the same.
- (12) Horseshoes and shoeing materials.
- (13) Harness and saddlery.
- (14) Field glasses, telescopes, chronometers, and all kinds of nautical instruments.

## ARTICLE 25.

Articles susceptible of use in war as well as for purposes of peace, other than those enumerated in Articles 22 and 24, may be added to the list of conditional contraband by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

## ARTICLE 26.

If a Power waives, so far as it is concerned, the right to treat as contraband of war an article comprised in any of the classes enumerated in Articles 22 and 24, such intention shall be announced by a declaration, which must be notified in the manner provided for in the second paragraph of Article 23.

## ARTICLE 27.

Articles which are not susceptible of use in war may not be declared contraband of war.

## ARTICLE 28.

The following may not be declared contraband of war:—

- (1) Raw cotton, wool, silk, jute, flax, hemp, and other raw materials of the textile industries, and yarns of the same.
- (2) Oil seeds and nuts; copra.
- (3) Rubber, resins, gums, and lacs; hops.
- (4) Raw hides and horns, bones, and ivory.
- (5) Natural and artificial manures, including nitrates and phosphates for agricultural purposes.
- (6) Metallic ores.

- (7) Earths, clays, lime, chalk, stone, including marble, bricks, slates and tiles.
- (8) Chinaware and glass.
- (9) Paper and paper-making materials.
- (10) Soap, paint and colours, including articles exclusively used in their manufacture, and varnish.
- (11) Bleaching powder, soda ash, caustic soda, salt cake, ammonia, sulphate of ammonia, and sulphate of copper.
- (12) Agricultural, mining, textile, and printing machinery.
- (13) Precious and semi-precious stones, pearls, mother-of-pearl, and coral.
- (14) Clocks and watches, other than chronometers.
- (15) Fashion and fancy goods.
- (16) Feathers of all kinds, hairs, and bristles.
- (17) Articles of household furniture and decoration: office furniture and requisites.

#### ARTICLE 29.

Likewise the following may not be treated as contraband of war:—

- (1) Articles serving exclusively to aid the sick and wounded. They can, however, in case of urgent military necessity and subject to the payment of compensation, be requisitioned, if their destination is that specified in Article 30.
- (2) Articles intended for the use of the vessel in which they are found, as well as those intended for the use of her crew and passengers during the voyage.

#### ARTICLE 30.

Absolute contraband is liable to capture if it is shown to be destined to territory belonging to or occupied by the enemy, or to the armed forces of the enemy. It is immaterial whether the carriage of the goods is direct or entails transshipment or a subsequent transport by land.

## ARTICLE 31.

• Proof of the destination specified in Article 30 is complete in the following cases:—

- (1) When the goods are documented for discharge in an enemy port, or for delivery to the armed forces of the enemy.
- (2) When the vessel is to call at enemy ports only, or when she is to touch at an enemy port or meet the armed forces of the enemy before reaching the neutral port for which the goods in question are documented.

## ARTICLE 32.

Where a vessel is carrying absolute contraband, her papers are conclusive proof as to the voyage on which she is engaged, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

## ARTICLE 33.

Conditional contraband is liable to capture if it is shown to be destined for the use of the armed forces or of a government department of the enemy State, unless in this latter case the circumstances show that the goods cannot in fact be used for the purposes of the war in progress. This latter exception does not apply to a consignment coming under Article 24 (4).

## ARTICLE 34.

The destination referred to in Article 33 is presumed to exist if the goods are consigned to enemy authorities, or to a contractor established in the enemy country who, as a matter of common knowledge, supplies articles of this kind to the enemy. A similar presumption arises if the goods are consigned to a fortified place belonging to the enemy, or other place serving as a base for the armed forces of the enemy. No such presumption, however, arises in the case of a merchant vessel bound for one of these places if it is sought to prove that she herself is contraband.

In cases where the above presumptions do not arise, the destination is presumed to be innocent.

• The presumptions set up by this Article may be rebutted.

## ARTICLE 35.

Conditional contraband is not liable to capture, except when found on board a vessel bound for territory belonging to or occupied by the enemy, or for the armed forces of the enemy, and when it is not to be discharged in an intervening neutral port.

The ship's papers are conclusive proof both as to the voyage on which the vessel is engaged and as to the port of discharge of the goods, unless she is found clearly out of the course indicated by her papers, and unable to give adequate reasons to justify such deviation.

## ARTICLE 36.

Notwithstanding the provisions of Article 35, conditional contraband, if shown to have the destination referred to in Article 33, is liable to capture in cases where the enemy country has no seaboard.

## ARTICLE 37.

A vessel carrying goods liable to capture as absolute or conditional contraband may be captured on the high seas or in the territorial waters of the belligerents throughout the whole of her voyage, even if she is to touch at a port of call before reaching the hostile destination.

## ARTICLE 38.

A vessel may not be captured on the ground that she has carried contraband on a previous occasion if such carriage is in point of fact at an end.

## ARTICLE 39.

Contraband goods are liable to condemnation.

## ARTICLE 40.

A vessel carrying contraband may be condemned if the contraband, reckoned either by value, weight, volume, or freight, forms more than half the cargo.

## ARTICLE 41.

If a vessel carrying contraband is released, she may be condemned to pay the costs and expenses incurred by the captor in respect of the proceedings in the national prize court and the custody of the ship and cargo during the proceedings.

## ARTICLE 42.

Goods which belong to the owner of the contraband and are on board the same vessel are liable to condemnation.

## ARTICLE 43.

If a vessel is encountered at sea while unaware of the outbreak of hostilities or of the declaration of contraband which applies to her cargo, the contraband cannot be condemned except on payment of compensation; the vessel herself and the remainder of the cargo are not liable to condemnation or to the costs and expenses referred to in Article 41. The same rule applies if the master, after becoming aware of the outbreak of hostilities, or of the declaration of contraband, has had no opportunity of discharging the contraband.

A vessel is deemed to be aware of the existence of a state of war, or of a declaration of contraband, if she left a neutral port subsequently to the notification to the Power to which such port belongs of the outbreak of hostilities or of the declaration of contraband respectively, provided that such notification was made in sufficient time. A vessel is also deemed to be aware of the existence of a state of war if she left an enemy port after the outbreak of hostilities.

## ARTICLE 44.

A vessel which has been stopped on the ground that she is carrying contraband, and which is not liable to condemnation on account of the proportion of contraband on board, may, when the circumstances permit, be allowed to continue her voyage if the master is willing to hand over the contraband to the belligerent warship.

The delivery of the contraband must be entered by the captor on the logbook of the vessel stopped, and the master must give the captor duly certified copies of all relevant papers.

The captor is at liberty to destroy the contraband that has been handed over to him under these conditions.

### CHAPTER III.

#### *Unneutral Service.*

##### ARTICLE 45.

A neutral vessel will be condemned and will, in a general way, receive the same treatment as a neutral vessel liable to condemnation for carriage of contraband:—

- (1) If she is on a voyage specially undertaken with a view to the transport of individual passengers who are embodied in the armed forces of the enemy, or with a view to the transmission of intelligence in the interest of the enemy.
- (2) If, to the knowledge of either the owner, the charterer, or the master, she is transporting a military detachment of the enemy, or one or more persons who, in the course of the voyage, directly assist the operations of the enemy.

In the cases specified under the above heads, goods belonging to the owner of the vessel are likewise liable to condemnation.

The provisions of the present Article do not apply if the vessel is encountered at sea while unaware of the outbreak of hostilities, or if the master, after becoming aware of the outbreak of hostilities, has had no opportunity of disembarking the passengers. The vessel is deemed to be aware of the existence of a state of war if she left an enemy port subsequently to the outbreak of hostilities, or a neutral port subsequently to the notification of the outbreak of hostilities to the Power to which such port belongs, provided that such notification was made in sufficient time.

##### ARTICLE 46.

A neutral vessel will be condemned and, in a general way, receive the same treatment as would be applicable to her if she were an enemy merchant vessel:

- (1) If she takes a direct part in the hostilities;

- (2) If she is under the orders or control of an agent placed on board by the enemy Government;
- (3) If she is in the exclusive employment of the enemy Government;
- (4) If she is exclusively engaged at the time either in the transport of enemy troops or in the transmission of intelligence in the interest of the enemy.

In the cases covered by the present Article, goods belonging to the owner of the vessel are likewise liable to condemnation.

#### ARTICLE 47.

Any individual embodied in the armed forces of the enemy who is found on board a neutral merchant vessel, may be made a prisoner of war, even though there be no ground for the capture of the vessel.

#### CHAPTER IV.

##### *Destruction of Neutral Prizes.*

#### ARTICLE 48.

A neutral vessel which has been captured may not be destroyed by the captor; she must be taken into such port as is proper for the determination there of all questions concerning the validity of the capture.

#### ARTICLE 49.

As an exception, a neutral vessel which has been captured by a belligerent warship, and which would be liable to condemnation, may be destroyed if the observance of Article 48 would involve danger to the safety of the warship or to the success of the operations in which she is engaged at the time.

#### ARTICLE 50.

Before the vessel is destroyed all persons on board must be placed in safety, and all the ship's papers and other documents which the parties interested consider relevant for the purpose of deciding on the validity of the capture must be taken on board the warship.



## ARTICLE 51.

A captor who has destroyed a neutral vessel must, prior to any decision respecting the validity of the prize, establish that he only acted in the face of an exceptional necessity of the nature contemplated in Article 49. If he fails to do this, he must compensate the parties interested and no examination shall be made of the question whether the capture was valid or not.

## ARTICLE 52.

If the capture of a neutral vessel is subsequently held to be invalid, though the act of destruction has been held to have been justifiable, the captor must pay compensation to the parties interested, in place of the restitution to which they would have been entitled.

## ARTICLE 53.

If neutral goods not liable to condemnation have been destroyed with the vessel, the owner of such goods is entitled to compensation.

## ARTICLE 54.

The captor has the right to demand the handing over, or to proceed himself to the destruction of, any goods liable to condemnation found on board a vessel not herself liable to condemnation provided that the circumstances are such as would, under Article 49, justify the destruction of a vessel herself liable to condemnation. The captor must enter the goods surrendered or destroyed in the logbook of the vessel stopped, and must obtain duly certified copies of all relevant papers. When the goods have been handed over or destroyed, and the formalities duly carried out, the master must be allowed to continue his voyage.

The provisions of Articles 51 and 52 respecting the obligations of a captor who has destroyed a neutral vessel are applicable.

## CHAPTER V.

*Transfer to a Neutral Flag.*

## ARTICLE 55.

The transfer of an enemy vessel to a neutral flag, effected before the outbreak of hostilities, is valid, unless it is proved that such transfer was made in order to evade the consequences to which an enemy vessel, as such, is exposed. There is, however, a presumption, if the bill of sale is not on board a vessel which has lost her belligerent nationality less than sixty days before the outbreak of hostilities, that the transfer is void. This presumption may be rebutted.

Where the transfer was effected more than thirty days before the outbreak of hostilities, there is an absolute presumption that it is valid if it is unconditional, complete, and in conformity with the laws of the countries concerned, and if its effect is such that neither the control of, nor the profits arising from the employment of, the vessel remain in the same hands as before the transfer. If, however, the vessel lost her belligerent nationality less than sixty days before the outbreak of hostilities and if the bill of sale is not on board, the capture of the vessel gives no right to damages.

## ARTICLE 56.

The transfer of an enemy vessel to a neutral flag, effected after the outbreak of hostilities, is void unless it is proved that such transfer was not made in order to evade the consequences to which an enemy vessel, as such, is exposed.

There, however, is an absolute presumption that a transfer is void—

- (1) If the transfer has been made during a voyage or in a blockaded port.
- (2) If a right to repurchase or recover the vessel is reserved to the vendor.
- (3) If the requirements of the municipal law governing the right to fly the flag under which the vessel is sailing, have not been fulfilled.

## CHAPTER VI.

*Enemy Character.*

## ARTICLE 57.

Subject to the provisions respecting transfer to another flag, the neutral or enemy character of a vessel is determined by the flag which she is entitled to fly.

The case where a neutral vessel is engaged in a trade which is closed in time of peace, remains outside the scope of, and is in nowise affected by, this rule.

## ARTICLE 58.

The neutral or enemy character of goods found on board an enemy vessel is determined by the neutral or enemy character of the owner.

## ARTICLE 59.

In the absence of proof of the neutral character of goods found on board an enemy vessel, they are presumed to be enemy goods.

## ARTICLE 60.

Enemy goods on board an enemy vessel retain their enemy character until they reach their destination, notwithstanding any transfer effected after the outbreak of hostilities while the goods are being forwarded.

If, however, prior to the capture, a former neutral owner exercises, on the bankruptcy of an existing enemy owner, a recognized legal right to recover the goods, they regain their neutral character.

## CHAPTER VII.

*Convoy.*

## ARTICLE 61.

Neutral vessels under national convoy are exempt from search. The commander of a convoy gives, in writing, at the request of the commander of a belligerent warship, all information as to the character of the vessels and their cargoes, which could be obtained by search.

## ARTICLE 62.

• If the commander of the belligerent warship has reason to suspect that the confidence of the commander of the convoy has been abused, he communicates his suspicions to him. In such a case it is for the commander of the convoy alone to investigate the matter. He must record the result of such investigation in a report, of which a copy is handed to the officer of the warship. If, in the opinion of the commander of the convoy, the facts shown in the report justify the capture of one or more vessels, the protection of the convoy must be withdrawn from such vessels.

## CHAPTER VIII.

*Resistance to Search.*

## ARTICLE 63.

Forcible resistance to the legitimate exercise of the right of stoppage, search, and capture, involves in all cases the condemnation of the vessel. The cargo is liable to the same treatment as the cargo of an enemy vessel. Goods belonging to the master or owner of the vessel are treated as enemy goods.

## CHAPTER IX.

*Compensation.*

## ARTICLE 64.

If the capture of a vessel or of goods is not upheld by the prize court, or if the prize is released without any judgment being given, the parties interested have the right to compensation, unless there were good reasons for capturing the vessel or goods.

## APPENDIX F.

## TRADING WITH THE ENEMY.

TRADING WITH THE ENEMY AMENDMENT ACT,  
1915.

(5 &amp; 6 GEO. 5, c. 79.)

*An Act to amend the Trading with the Enemy Acts, 1914.*  
[29th July, 1915.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Payment of Dividends, &c. payable to Enemy.*

1.—(1) Section two of the Trading with the Enemy Amendment Act, 1914 (5 & 6 Geo. 5, c. 12) (hereinafter referred to as the principal Act), which relates to the payment to the custodian of dividends, interest, and profits payable to or for the benefit of enemies, shall extend to sums which, had a state of war not existed, would have been payable and paid in the United Kingdom to enemies—

- (a) in respect of interest on securities issued by or on behalf of the Government or the Government of any of His Majesty's Dominions or any foreign Government, or by or on behalf of any corporation or any municipal or other authority whether within or without the United Kingdom; and

- (b) by way of payment off of any securities which have become repayable on maturity or by being drawn for payment or otherwise, being such securities as aforesaid or securities issued by any company;

and in the case of such sums as aforesaid (other than sums in respect of the payment off of securities issued by a company) the duty of making payments to the custodian and of requiring payments to be made to him and of furnishing him with particulars shall rest with the person, firm or company through whom the payments in the United Kingdom are made, and the said section shall apply accordingly, and as if for references therein to the date of the passing of the principal Act there were substituted references to the date of the passing of this Act.

(2) Where the custodian is satisfied from returns made to him under section three of the principal Act that any such securities as aforesaid (including securities issued by a company) are held by any person on behalf of an enemy, the custodian may give notice thereof to the person, firm or company by or through whom any dividends, interest or bonus in respect of the securities or any sums by way of payment off of the securities are payable, and upon the receipt of such notice any dividends, interest or bonus payable in respect of, and any sums by way of payment off of, the securities to which the notice relates shall be paid to the custodian in like manner as if the securities were held by an enemy.

(3) For the purposes of this section "securities" includes stock, shares, annuities, bonds, debentures or debenture stock or other obligations.

•        •

*Notification of Bank Balances, Deposits, or Debts due to Enemies.*

2.—(1) Sub-section (1) of section three of the principal Act, which requires returns to be made to the custodian of property held or managed for or on behalf of enemies, shall apply to balances and deposits standing to the credit of enemies at any bank, and to debts to the amount of fifty pounds or upwards, which are due, or which, had a state of war not existed, would have been due, to enemies, as if such bank or debtor were a

person who held property on behalf of an enemy, and as if for references to the passing of the principal Act there were substituted references to the passing of this Act.

(2) The duty of making returns under the said sub-section as so amended shall extend to companies as if the expression "person" included company, and if any company fails to comply with the provisions of that sub-section as so amended every director, manager, secretary, or officer of the company who is knowingly a party to the default shall, on summary conviction, be liable to a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding six months, or to both such a fine and imprisonment, and in addition to a further fine not exceeding fifty pounds for every day during which the default continues.

(3) The custodian shall keep a register of all property returns whereof have been made to him under section three of the principal Act as amended by this section, and such register may be inspected by any person who appears to the custodian to be interested as a creditor or otherwise.

*Invalidity of Assignment of Debts by Enemies or Transfers of Shares in Company, &c.*

3. Sections six, seven, and eight of the principal Act shall apply as if the expression "enemy," where used in those sections, included any person or body of persons who is an enemy or treated as an enemy under any proclamations relating to trading with the enemy for the time being in force:

Provided that the said sections six and eight shall apply as respects persons who were not enemies, nor treated as enemies, under the proclamations in force on the nineteenth day of November nineteen hundred and fourteen, with the substitution of references to the nineteenth day of July nineteen hundred and fifteen for references to the said nineteenth day of November, and of references to the date of the passing of this Act for references to the date of the passing of the principal Act, and except in cases where a licence has been duly granted exempting any particular transaction from the provisions of any of the said sections.

*Limitation on Powers of certain Companies to commence Proceedings.*

4 No action shall be brought or other proceedings commenced by a company the books and documents of which are liable to inspection under sub-section (2) of section two of the Trading with the Enemy Act, 1914 (4 & 5 Geo. 5, c. 87), unless notice in writing has previously been given by the company to the custodian of their intention.

*Short Title and Construction.*

5. This Act may be cited as the Trading with the Enemy Amendment Act, 1915, and shall be construed as one with the principal Act; and the Trading with the Enemy Act, 1914, the Trading with the Enemy Amendment Act, 1914, and this Act shall be cited together as the Trading with the Enemy Acts, 1914 and 1915.





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